

TSD File Inventory Index

Date: March 6, 2009

Initial: CMG/MS

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1.			

Note: Transmittal Letter to Be Included with Reports.

Comments: _____



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

RECEIVED
OHIO EPA

JUL 12 2010

DIV. OF HAZARDOUS
WASTE MGT.

JUL 06 2010

REPLY TO THE ATTENTION OF:
LR-8J

CERTIFIED MAIL 7099 3400 0000 9586 0268
RETURN RECEIPT REQUESTED

Mr. Harry Sarvis
Manager, Compliance Assurance Section
Department of Hazardous Waste Management
Ohio Environmental Protection Agency
Post Office Box 1049
Columbus, Ohio 43216-1049

Re: Cylinder Processors Inc.
EPA I.D. No.: OHR 000 132 365

Dear Mr. Sarvis:

Pursuant to Section 3008(a)(2) of the Resource Conservation and Recovery Act (RCRA), as amended, I am providing notice to you that the U. S. Environmental Protection Agency is preparing to issue an administrative Complaint under Section 3008(a)(1) to Cylinder Processors Inc., 1415 Grandin Road, Maineville, Ohio.

The Complaint is in response to the November 27, 2007, inspection by the EPA and the Ohio EPA. EPA is alleging that Cylinder Processors Inc., stored hazardous waste at its facility without a RCRA hazardous waste permit, failed to maintain emergency equipment, failed to maintain a written hazardous waste training program, and failed to comply with contingency plan requirements. The Administrative Complaint will assess civil penalties.

If you have any questions regarding this letter, please contact Paul Atkociunas, of my staff, at (312) 886-7502.

Sincerely,

Mary S. Setnicar
Acting Chief, RCRA Branch
Land and Chemicals Division

cc: Harry Sarvis, Ohio EPA
Tom Koch, Ohio EPA, Southwest District Office

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MR. HARRY SARVIS
MANAGER, COMPLIANCE ASSURANCE SECTION
DHLWM
OHIO EPA
P.O. BOX 1049
COLUMBUS, OH 43216

2. Article Number

(Transfer from service label)

7099 3400 0000 9586 0268

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

DEE WERCHOWSKI 7-12-10

C. Signature

X Dee Werchowski ☐ Agent ☒ AddresseeD. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ NoJUL 12 2010
RECEIVED
OHIO EPA3. Service Type ^{DIV. OF HAZARDOUS} WASTE MGT.

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes



Land and Chemicals Division

Type of Document: ☐ Notice of Violation and Inspection Report/Checklist
☐ No Violation Letter and Inspection Report/Checklist
☐ Letter of Acknowledgment
☐ Information Request
☐ Pre-Filing and Opportunity to Confer
☒ State Notification of Enforcement Action
☐ Return to Compliance
☐ Other Correspondence- NOD, memo to ORC

Facility Name: Cylinder Processors Inc.

City: Mainville State: Ohio

U.S. EPA ID#: OHR 000 132 365

Assigned Staff: Paul Atkociunas Phone: 6-7502

Name	Signature	Date
Author	<i>Paul Atkociunas</i>	6/22/10
Regional Counsel	<i>[Signature]</i> w/ corrections please make them	6/24/10
ORC Section Chief	<i>[Signature]</i> EF	6/30/10
Section Chief	<i>[Signature]</i>	7-2-10
Branch Chief	<i>[Signature]</i>	7/2/10

Directions/Request for Clerical Support:

After the Section Chief/Branch Chief signs this sheet and original letter:

1. Date stamp the cover letter;
2. Make one copy of the contents of this folder for the official file; Note: original inspection report goes into file room.
3. Scan the letter and save the file in the appropriate share drive folder.
4. Mail the original certified mail.
5. Distribute office copies and cc's and bcc's by email.

Once the certified mail receipt is returned:

6. File the certified mail receipt (green card), with this sign-off sheet and the official file copy, and take to 7th floor RCRA file room.
7. E-mail staff the date that the letter was received by facility.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUN 30 2010

REPLY TO THE ATTENTION OF:

LR-8J

CERTIFIED MAIL 7001 0320 0006 1448 5674
RETURN RECEIPT REQUESTED

Mr. Lowell King
President
Cylinder Processors Inc.
1415 Grandin Road
Maineville, Ohio 45039

Re: Notice of Intent to File Civil Administrative Complaint against
Cylinder Processors Inc.; EPA ID No.: OHR 000 132 365

Dear Mr. King:

The U. S. Environmental Protection Agency plans to file an administrative complaint for civil penalties against Cylinder Processors, Inc. ("Cylinder Processors" or "you"). We will allege that you violated the Resource Conservation and Recovery Act [RCRA], 42 U.S.C. §§ 6901-6992k, as amended, as described in the attached Notice of Violation previously issued to you.¹ In addition, this letter informs you that EPA deems Cylinder Processors to be a Significant Non-Complier under RCRA.

Based on information currently available to us, we plan to propose a penalty of \$27,800 in the complaint. This letter is not a demand to pay a penalty. We will not ask you to pay a penalty until we file the complaint or a final order. Before filing the complaint, we are giving you the opportunity to present any information that you believe we should consider. Relevant information might include evidence that you did not violate the law; evidence that you relied on compliance assistance from EPA or a state agency; evidence that we identified the wrong party; or financial data bearing on your ability to pay a penalty.

If you believe that you will be unable to pay a \$27,800 penalty because of financial reasons, please send us certified, complete financial statements including balance sheets, income statements and all notes to the financial statements, and your company's signed income tax returns with all schedules and amendments, for the past three years.

¹ EPA plans to focus on the violations outlined in paragraphs 2 through 5 of the NOV, as well as Cylinder Processors Inc.'s improper storage of hazardous waste on-site without a hazardous waste permit, which were required as a result of Cylinder Processor's failure to comply with the requirements for an exemption. *See also* OAC 3745-52-34(A)(4) and 40 C.F.R. § 262.34(a)(4).

You may assert a claim of business confidentiality under 40 C.F.R. part 2, subpart B, for any portion of the information you submit to us. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. part 2, subpart B. If you fail to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it.

Within 10 calendar days after you receive this letter, please send any written response to:

Paul Atkociunas
Chemist (LR-8J)
United States Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

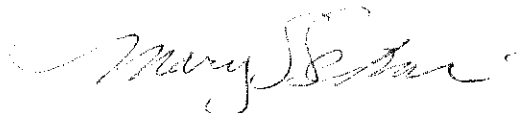
If you want to confer with us, you should contact Paul Atkociunas, of the RCRA Branch, in writing within 10 calendar days after you receive this letter. Please be advised that this conference is not a settlement negotiation covered by Federal Rule of Evidence 408; we may use any information you submit in support of an administrative, civil or criminal action. After the conference (or after you have submitted a written reply if we do not have a conference), we may give you the opportunity to engage in settlement negotiations before we file the complaint. If pre-filing settlement negotiations commence and are successful, a settlement agreement can be filed under EPA regulations at 40 C.F.R. § 22.13(b).

If you do not respond to this letter, EPA may file a complaint without further notice against Cylinder Processors as authorized under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

If you have any legal questions, please telephone Associate Regional Counsel, Cynthia Kawakami at (312) 886-0564.

Thank you for your prompt attention to this matter.

Sincerely,



Mary S. Setnicar
Acting Chief, RCRA Branch
Land and Chemicals Division

Enclosure

cc: Tom Koch, Ohio EPA, Southeast East District Office
Harry Sarvis, Ohio EPA



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG 25 2000

REPLY TO THE ATTENTION OF:

LR-8J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Lowell King
President
Cylinder Processors Inc.
1415 Grandin Road
Maineville, Ohio 45039

Re: Request for Information
EPA ID No.: OHR 000 132 365

Dear Mr. King:

By this letter, the U.S. Environmental Protection Agency requests information under Section 3007 of the Resource Conservation Act (RCRA), as amended, 42 U.S.C. § 6927. The Administrator of EPA is authorized by Section 3007 of RCRA to require you to submit certain information in response to the Agency's request for information.

This request requires Cylinder Processors Inc. (Cylinder Processors, the facility, or you) to submit certain information relating to wastes that Cylinder Processors treated and/or handled at its facility located at 1415 Grandin Road, Maineville, Ohio. We are requiring this information to determine the facility's compliance with Sections 3002, 3004, and/or 3005 of RCRA, 42 U.S.C. §§ 6922, 6924, and/or 6925, and the regulations set forth at 40 C.F.R. §§ 260 through 268. The attached request for information specifies the information that you must provide. Within thirty (30) days of receiving this request for information, you must submit the information to the EPA, Attention: Paul Atkociunas, 77 West Jackson Boulevard, LR-8J, Chicago, Illinois 60604.

Under 40 C.F.R. Part 2, Subpart B, you may assert a business confidentiality claim covering all or part of your information, consistent with 40 C.F.R. § 2.203(b). EPA will disclose the information covered by a business confidentiality claim only to extent as provided by and through means of the procedures set forth at 40 C.F.R. Part 2, Subpart B. You must make any request for confidentiality when you submit the information to EPA since any information not so identified may be made available to the public without further notice.

Cylinder Processors must submit all requested information under an authorized signature certifying that the information is true and complete to the best of the signatory's knowledge and

belief. Should the signatory find, at any time after submitting the requested information, that any portion of the submitted information is false, misleading or incomplete, the signatory should notify Paul Atkociunas at EPA. Knowingly providing false information, in response to this request, may be actionable under 18 U.S.C. §§ 1001 and 1341. EPA may use the requested information in an administrative, civil or criminal action.

This request is not subject to the Paperwork Reduction Act, U.S.C. § 3501 et seq., because it seeks collection of information from specific individuals or entities as part of an administrative action or investigation.

Failure to comply fully with this request for information may subject Cylinder Processors to an enforcement action under Section 3008 of RCRA, 42 U.S.C. § 6928. You should direct questions about this request for information to Paul Atkociunas at (312) 886-7502.

Sincerely,

A handwritten signature in cursive script that reads "Paul Little".

Paul Little, Chief
RCRA Branch
Compliance Section 2

Enclosure

cc: Harry Sarvis, Ohio EPA
Tom Koch, Ohio EPA, Southwest District Office

REQUEST FOR INFORMATION

Instructions: You must respond separately to each of the questions or requests in this attachment. Precede each answer with the number of the Request for Information to which it corresponds. For each document produced in response to this Request for Information, indicate on the document, or in some other reasonable manner, the number of the question to which it responds. Where documents are only retained in electronic form, provide copies of these electronic documents on computer disc.

All questions or requests set forth below pertain to Cylinder Processors Inc. (Cylinder Processors, the facility, or you), 1415 Grandin Road, Maineville, Ohio (EPA ID No.: OHR 000 132 365). For the purposes of this request, the 'waste acetone' shall refer to the waste acetone transported by, or shipped to Hukill Chemical Corporation and/or any other off-site facility from Cylinder Processors.

Requests

1. Identify all persons consulted in preparing the answers to this Request for Information. Provide the full name and title for each person identified.
2. Provide the date that the facility first began collecting and/or generating waste acetone. If the exact date is unknown, provide an estimate.
3. Identify each and every shipment and/or collection of acetylene cylinders received by Cylinder Processors, including, but not limited to the number and size of cylinders received at the facility. Provide true, accurate, and complete copies of records that document each and every shipment and/or collection of acetylene cylinders, including, but not limited to copies of internal records, manifests, bills of lading, receipts, and shipping records.
4. Describe Cylinder Processors' process for generating and/or collecting waste acetone from the cylinders it processed, including, but not limited to the following information:
 - a. The steps in the process to extract waste acetone from the cylinders;
 - b. The minimum and maximum number of cylinders that are subjected to the acetone extraction process at each instance;
 - c. The number of employees involved in each step of the process;
 - d. The identity of each employee engaged in each step of the process;
 - e. The method of transfer of the waste acetone from the point of generation to the accumulation/storage area;
 - f. The identification of the waste acetone storage/accumulation area, including, but not limited to the quantity, type, size, and nature of the storage containers used for the waste acetone;
 - g. The maximum quantity of waste acetone that is stored by Cylinder Processors at one time in the accumulation area;
 - h. The identification of the containers used to hold the waste acetone for shipping to an

- off-site facility, including, but not limited to the quantity, type, size, and nature of the shipping containers used for the waste acetone;
- i. The method of transfer of the waste acetone from the storage/accumulation containers to the containers used for shipping off-site for disposal;
 - j. The identity of the companies that accepted Cylinder Processors shipments of waste acetone.
5. Provide true, accurate, and complete copies of all documents regarding the waste characterization and/or physical and/or chemical analysis of Cylinder Processors' waste acetone, including but not limited to sampling data, reports, laboratory data, material safety data sheets, waste approval forms, and certifications.
 6. Identify each and every instance of processing of cylinders at the facility that produced waste acetone, including, but not limited to the date, number of cylinders processed, and quantity of waste acetone produced. Provide true, accurate, and complete copies of records that document each instance of processing of cylinders at the facility that produced waste acetone.
 7. With regard to each instance of the facility's processing of cylinders at the facility identified in response to question #6 above, provide the storage accumulation start and end date for each quantity of waste acetone collected as a result of each instance of processing. Provide true, accurate, and complete copies of records that document each period of accumulation/storage for each quantity of waste acetone.
 8. Provide true, accurate and complete copies of each and every hazardous waste manifest for each shipment of waste acetone from Cylinder Processors to an off-site facility between September 2005 and the present.
 9. Provide a description of the current fire control, spill control, and decontamination equipment located at the facility, including but not limited to the following information:
 - a. A description of the fire suppression system including location / capacity of sprinklers, foam, and/or fire extinguishers;
 - b. A description of each water hose stream at the facility, including water volume and pressure;
 - c. A description of the bonding and grounding system(s) for the transfer of waste acetone;
 - d. A description of the type, amount, and location of spill control equipment.
 10. Provide a description of the fire control, spill control, and decontamination equipment located at the facility as of the time of the EPA inspection on November 27, 2007, including but not limited to the following information:
 - a. A description of the fire suppression system including location / capacity of sprinklers, foam, and/or fire extinguishers;
 - b. A description of each water hose stream at the facility, including water volume and

- pressure;
- c. A description of the bonding and grounding system(s) for the transfer of waste acetone:
 - d. A description of the type, amount, and location of spill control equipment.
11. Describe all actions Cylinder Processors has taken to correct the violations outlined in the Notice of Violation issued to it by EPA on April 10, 2008.
12. At the end of Cylinder Processors' response to this information request, provide and sign the following certification by a responsible corporate officer:

I certify under the penalty of law that I have examined and am familiar with the information submitted in responding to this information request for production of documents. Based on my review of all relevant documents and inquiring of those individuals immediately responsible for providing all relevant information and documents, I believe that the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.



Land and Chemicals Division

WAL to 8-25-09
to mail

Type of Document: ☐ Notice of Violation and Inspection Report/Checklist
☐ No Violation Letter and Inspection Report/Checklist
☐ Letter of Acknowledgment
☒ Information Request
☐ Pre-Filing and Opportunity to Confer
☐ State Notification of Enforcement Action
☐ Return to Compliance
☐ Inspection Report



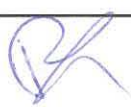
Facility Name : Cylinder Processors Inc.

Facility Location: 1415 Grandin Road

City: Maineville State: OH

U.S. EPA ID# OHR 000 132 365

Assigned Staff: Paul Atkociunas Phone: 6-7502

Name	Signature	Date
Paul Atkociunas Author		8/14/09
Cynthia Kawakami Regional Counsel		8/18/09
Paul Little Section Chief		8-21-09
Branch Chief	N/A	

PT
MG

Directions/Request for Clerical Support:

After the Section Chief/Branch Chief signs this sheet and original letter:

1. Date stamp the cover letter;
2. Make four copies of the contents of this folder:
 - One copy for the assigned staff;
 - One copy for the section file;
 - One copy for the branch file; and
 - One copy for the official file.
3. Make any additional copies for cc's or bcc's.
4. Mail the original certified mail and distribute office copies and cc's and bcc's.
Once the certified mail receipt is returned:
5. File the certified mail receipt (green card), with this sign-off sheet and the official file copy, and take to 7th floor RCRA file room;
6. E-mail staff the date that the letter was received by facility.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Lowell King
Cylinder Processors Inc.
1415 Grandin Road
Maineville, Ohio 45039

2. Article Number

(Transfer from service label)

7001 0320 0006 0185 6296

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature

x Lowell King

☐ Agent☐ AddresseeD. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Lowell King, President
Cylinder Processors, Inc.
1415 Grandin Road
Kings Mill, OH 45034

2. Article Number

(Transfer from service label)

7001 0320 0006 0185 0744

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

B. Date of Delivery

4-18

C. Signature

X

- ☐
- Agent
-
- ☐
- Addressee

D. Is delivery address different from item 1?

If YES, enter delivery address below:

- ☐
- Yes
-
- ☐
- No

3. Service Type

- ☒
- Certified Mail
- ☐
- Express Mail
-
- ☐
- Registered
- ☒
- Return Receipt for Merchandise
-
- ☐
- Insured Mail
- ☐
- C.O.D.

4. Restricted Delivery? (Extra Fee)

- ☐
- Yes



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

APR 10 2008

LR-8J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Lowell King
President
Cylinder Processors Inc.
1415 Grandin Road
Kings Mill, Ohio 45034

Re: Notice of Violation
Cylinder Processors Inc.
EPA Id No.: OHR 000 132 365

Dear Mr. King:

On November 27, 2007, representatives of the United States Environmental Protection Agency (U.S. EPA) and Ohio Environmental Protection Agency (Ohio EPA) inspected the Cylinder Processors Inc. (Cylinder Processors) installation located in Kings Mill, Ohio. The purpose of the inspection was to evaluate Cylinder Processors' compliance with certain provisions of the Resource Conservation and Recovery Act (RCRA). The inspection focused on those regulations related to the generation, treatment and storage of hazardous waste. A copy of the inspection report is enclosed for your reference.

Based on information provided by personnel, review of records, and personal observations made by the inspectors at the time of the investigation, the U.S. EPA has determined that Cylinder Processors was engaged in the storage and management of hazardous waste without a hazardous waste storage permit and was in violation of the requirements of the Ohio Administrative Code (OAC) and United States Code of Federal Regulations (CFR). To be eligible for the exemption from the requirement to obtain a hazardous waste storage permit, Cylinder Processors must be in compliance with the conditions of OAC 3745-52-34(A) and (C) [40 CFR § 262.34(a) and (c)]. Manifest records indicate that Cylinder Processors generates greater than 1,000 kilograms of hazardous waste per month. We find that Cylinder Processors was in noncompliance with the following conditions for a storage permit exemption, and in violation of the following hazardous waste management requirements:

1. To avoid the need for a hazardous waste storage permit, a large quantity generator using containers to accumulate hazardous waste may not accumulate the waste for longer than 90 days. See OAC rule 3745-52-34(A) [40 CFR § 262.34(a)].

Manifest records indicate that Cylinder Processors shipped 5,955 gallons of waste acetone (EPA Hazardous Waste Number D001) on April 12, 2007. The next shipment of waste acetone was on September 18, 2007 (5,600 gallons of waste acetone). The duration between the two shipments was 159 days. Cylinder Processors, therefore, failed to comply with the above-mentioned condition for a storage permit exemption.

2. To avoid the need for a hazardous waste storage permit, a large quantity generator must, among other requirements, equip the facility with portable fire extinguishers, fire control equipment (including, but not limited to, special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment. See OAC Rules 3745-52-34(A)(4) and 3745-65-32(C) [40 CFR §§ 262.34(a)(4) and 265.32(c)].

At the time of the inspection, Cylinder Processors failed to have fire control, spill control, and decontamination equipment. Manifest records indicate that Cylinder Processors accumulates up to 5,955 gallons of waste acetone (EPA Hazardous Waste Number D001), which created a significant fire risk at the facility. Cylinder Processors, therefore, failed to comply with the above-mentioned condition for a storage license exemption and violated the emergency equipment requirement.

3. To avoid the need for a hazardous waste storage permit, a large quantity generator must, among other requirements, equip the facility with water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems. See OAC Rules 3745-52-34(A)(4) and 3745-65-32(D) [40 CFR §§ 262.34(a)(4) and 265.32(d)].

At the time of the inspection, Cylinder Processors failed to equip the facility with water at adequate volume and pressure to supply water hose streams or foam producing equipment, or automatic sprinklers. Manifest records indicate that Cylinder Processors accumulates more than 5,900 gallons of ignitable hazardous waste, which created a significant risk of fire at the facility. Cylinder Processors, therefore, failed to comply with the above-mentioned condition for a storage license exemption and violated the fire control equipment requirement.

4. To avoid the need for a hazardous waste storage permit, a large quantity generator must, among other requirements, implement a hazardous waste training program. See OAC Rules 3745-52-34(A)(4) and 3745-65-16 [40 CFR §§ 262.34(a)(4) and 265.16]. The requirements OAC Rules 3745-65-16 include: the facility must

have a written description of the type and amount of training; the training is to include instruction which teaches facility personnel hazardous waste management procedures including, but not limited to, contingency plan implementation; the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies; personnel must complete the program within six months after the date of their employment; and, facility personnel must take part in an annual review of the training.

At the time of the inspection, Cylinder Processors failed to provide documentation that employees who handle hazardous waste were trained in hazardous waste management procedures. Cylinder Processors, therefore, failed to comply with the above-mentioned condition for a storage license exemption and violated the personnel training requirements.

5. To avoid the need for a hazardous waste storage permit, a large quantity generator must have a contingency plan for the facility. The contingency plan shall be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water. See OAC Rules 3745-52-34(A)(4) and 3745-65-51(A) [40 CFR §§ 262.34(a)(4) and 265.51(a)]. The requirements OAC Rules 3745-65-52 include: the contingency plan must describe actions facility personnel must take in response to fires, explosions, or any releases of hazardous waste or hazardous waste constituents; the plan must describe arrangements agreed to by local, state, and private organizations to coordinate emergency services; the plan must list names, addresses, and phone numbers of all persons qualified to act as emergency coordinator; the plan must contain a list/description of all emergency equipment at the facility [such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment]; and the plan must include an evacuation plan for facility.

At the time of the inspection, Cylinder Processors failed to provide a contingency plan that met the requirements listed above. Cylinder Processors, therefore, failed to comply with the above-mentioned condition and violated the personnel training program requirement.

6. To avoid the need for a hazardous waste storage permit, a large quantity generator must inspect areas where hazardous waste containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors. The owner or operator must record inspections in an inspection log or summary. See OAC Rules 3745-52-34(A)(1)(a) and 3745-66-74 [40 CFR §§ 262.34(a)(1)(i) and 265.174].

At the time of the inspection, Cylinder Processors personnel indicated that they conducted weekly inspections of areas where hazardous waste containers are stored; however, they also indicated that the inspections are not documented.

Cylinder Processors, therefore, failed to comply with the above-mentioned condition and violated the weekly inspection documentation requirement.

7. A large quantity generator who accumulates hazardous waste on-site for more than 90 days and who does not meet the conditions for a permit exemption of OAC rule 3745-52-34(A) is an operator of a hazardous waste storage facility, and is required to apply for and obtain an Ohio hazardous waste storage permit. See OAC Rules 3745-52-34(A), 3745-50-41(A), and 3745-50-45(A) [40 CFR §§ 270.1(c), and 270.10(a), (d)]. Cylinder Processors' failure to meet the conditions for a hazardous waste storage permit exemption as outlined in Violations 1 through 6, and Cylinder Processors' failure to apply for and obtain a hazardous waste storage license violated the permitting requirements of OAC Rules 3745-41(A) and 3745-50-45(A) [40 CFR §§ 270.1(c), and 270.10(a) and (d)].

At this time, U.S. EPA is not requiring Cylinder Processors to apply for a storage permit, so long as it immediately establishes compliance with all of the conditions for an exemption outlined above. Under Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), U.S. EPA may issue an order assessing a civil penalty for any past or current violation and requiring compliance immediately or within a specified time period. Although this letter is not such an order, you are hereby requested to submit a response in writing to this office no later than thirty (30) days after receipt of this letter documenting the actions, if any, which have been taken since the inspection to establish compliance with the above requirements. However, please be advised that Cylinder Processors' compliance with the conditions and requirements described above will not relieve Cylinder Processors of its liability for the violations identified in this letter. U.S. EPA reserves the right to bring further enforcement actions (including an action for civil penalties) against Cylinder Processors for the violations identified in this letter.

If you have any questions regarding the inspection report, the findings of violations, or the information requested, please contact Paul Atkociunas, of my staff, at 312-886-7502.

Sincerely,



Willie H. Harris, P.E.
Chief, RCRA Branch
Land and Chemicals Division

Enclosure

cc: Harry Sarvis, Ohio EPA
Tom Koch, Ohio EPA, Southwest District Office



Land and Chemicals Division

Type of Document: ☐ Notice of Violation and Inspection Report/Checklist
☐ No Violation Letter and Inspection Report/Checklist
☐ Letter of Acknowledgment
☐ Information Request
☒ Pre-Filing and Opportunity to Confer
☐ State Notification of Enforcement Action
☐ Return to Compliance
☐ Other Correspondence- NOD, memo to ORC

Facility Name: Cylinder Processors Inc.

City: Mainville State: Ohio

U.S. EPA ID#: OHR 000 132 365

Assigned Staff: Paul Atkociunas Phone: 6-7502

Name	Signature	Date
Author	<i>[Signature]</i>	6/17/10
Regional Counsel	<i>[Signature]</i>	6/22/2010
Section Chief	<i>[Signature]</i>	6/23/2010
Branch Chief	<i>[Signature]</i>	6/30/10

Directions/Request for Clerical Support:

After the Section Chief/Branch Chief signs this sheet and original letter:

1. Date stamp the cover letter;
2. Make one copy of the contents of this folder for the official file; Note: original inspection report goes into file room.
3. Scan the letter and save the file in the appropriate share drive folder.
4. Mail the original certified mail.
5. Distribute office copies and cc's and bcc's by email.

Once the certified mail receipt is returned:

6. File the certified mail receipt (green card), with this sign-off sheet and the official file copy, and take to 7th floor RCRA file room.
7. E-mail staff the date that the letter was received by facility.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Cylinder Processors
1415 Grandin Road
Maineville, OH 45039

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature

X

☐ Agent
☐ AddresseeD. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from service label)

7001 0320 0006 1448 5674

PS Form 3811, March 2001

Domestic Return Receipt

102595-01-M-1424

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 W. JACKSON BOULEVARD
CHICAGO, IL 60604

COMPLIANCE EVALUATION INSPECTION REPORT

INSTALLATION NAME: Cylinder Processors Inc.

EPA ID No.: OHR 000 132 365


LOCATION ADDRESS: 1415 Grandin Road
Kings Mill, Ohio, 45034

NAICS CODE: 42383

DATE OF INSPECTION: 11/27/2007

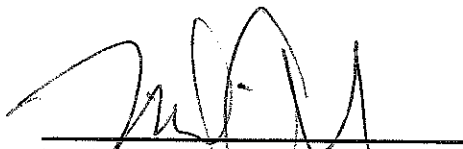
U.S. EPA INSPECTOR: Paul Atkociunas

PREPARED BY:


Paul Atkociunas
Chemist

12-18-07
Date

ACCEPTED BY:


Paul Little
Chief, Compliance Section #2

12-18-07
Date

PARTICIPANTS:

Paul Atkociunas
Chemist
U.S. EPA
77 W Jackson Boulevard, LR-8J
Chicago, Illinois 60604

Tom Koch
Environmental Specialist
Ohio EPA
401 E Fifth Street
Dayton OH 45402

Lowell King
President
Cylinder Processors Inc.
1415 Grandin Road
Kings Mill, Ohio 45034

PURPOSE OF INSPECTION:

The purpose of the inspection was to conduct a Compliance Evaluation Inspection (CEI) at the Cylinder Processors Inc. installation located at 1415 Grandin Road, Kings Mill, Ohio. The inspection was conducted to determine the installation's compliance under the Resource, Conservation and Recovery Act (RCRA) and the hazardous waste regulations in Chapter 3745 of the Ohio Administrative Code. The inspection was conducted with personnel from the U.S. EPA and the Ohio Environmental Protection Agency (Ohio EPA), with U.S. EPA being the lead enforcement agency. At the time of the inspection, the facility appeared to be a large quantity generator of hazardous waste. The facility operates out of the Peters Cartridge Facility, a former ammunition manufacturing facility which is currently a proposed site to the National Priorities List (NPL).

11/27/2007

INTRODUCTION:

U.S. EPA inspector Paul Atkociunas and Ohio EPA inspector Tom Koch arrived at the facility at approximately 10:30am. The inspection team introduced themselves to Lowell King, President. Mr. King stated that he had to assist a transporter in getting out of the facility and would assist the team in a few moments. When Mr. King returned, Inspector Atkociunas presented him with his federal enforcement credentials. The inspection team explained the nature, purpose and scope of the inspection and requested a brief overview of facility operations.

INSTALLATION DESCRIPTION:

Mr. King stated that he collects the majority of the acetylene cylinders from a landfill located in Cleveland. Acetylene cylinders contain a honeycomb-like matrix embedded with acetone which allows the acetylene to be used / stored safely. He informed the inspection team that the cylinders arrive at the facility at open (atmospheric pressure). Heat is used to liberate the acetone from the matrix; the acetone can then be collected and disposed of. Mr. King stated that Cylinder Processors grinds the tops of the cylinders to read/record the serial numbers, installs an adapter

(for the acetone extraction), weighs the individual cylinders, transfers the cylinders to the oven, connects the adapter for acetone extraction, and heats the room to approximately 150 degrees Fahrenheit. Mr. King stated that a vacuum pump on top of the oven pulls the acetone vapors from the cylinders which are condensed in a chiller (water tub). Mr. King stated that the acetone is then collected in totes and accumulated in drums. Mr. King then stated that the cylinders are weighed to document the amount of acetone collected per cylinder. Mr. King stated that he maintains a log of all cylinders received, weights, and manifest numbers for the acetone shipped for off-site disposal. Mr. King stated that due to the condition of the cylinders and the make-up of the matrix, the cylinders are generally sent to a solid waste landfill for disposal.

Mr. King stated that Cylinder Processors moved to the location in September 2005. Mr. King stated that the company employs four personnel and that he collects cylinders from off-site approximately once every two months. Mr. King stated that the oven / vacuum run all the time and that the larger cylinders can take four days to extract all of the acetone. Mr. King stated that the facility is inspected daily because the wood furnace had to be checked twice per day, including Saturday and Sunday. Inspector Atkociunas requested Mr. King for access to the facility to conduct the inspection and informed him that a camera may be used during the course of the inspection. Mr. King allowed the inspectors access to the facility for the inspection and allowed the use of a camera.

VISUAL SITE INSPECTION:

The visual site inspection was conducted with U.S. EPA Inspector Atkociunas, Ohio EPA Inspector Koch and facility representative King. The inspection team observed cylinders which were waiting processing per Mr. King. The cylinders were open / exposed to the atmosphere. Mr. King directed the inspection team to the scale used to obtain the weights of the cylinders and the oven. The oven is a wooden room located inside the building. Mr. King opened the door to the oven; the inspection team observed a series of cylinders located inside the room connected to hoses. Mr. King directed the inspection team to the pump and chiller (water tub) located at the top of the shed, and a series of four totes used to collect the acetone adjacent to the oven room. Mr. King stated that one tote collects the vapors while the other three collect the liquid acetone. Inspector Atkociunas collected several pictures of the oven / collection area.

Mr. King explained that a representative of the company went to U.S. EPA headquarters in Washington to discuss the exemption of collecting acetone from regulations. Inspector Atkociunas stated that he reviewed guidance issued by U.S. EPA and Ohio EPA.

Mr. King directed the inspection team to the drum storage room. Mr. King stated that the drums were empty because the facility just shipped their waste for off-site disposal. Inspector Atkociunas asked Mr. King if there was a fire suppression system in the room; Mr. King stated that there was not, but that the fire department had visited the facility. Inspector Atkociunas collected a photo of the drum storage area. Mr. King directed the inspection team outside to the wood furnace. Mr. King informed stated that the facility brings in wood from off-site which used to heat water which is circulated to heat the cylinder oven.

RECORDS REVIEW:

Inspector Atkociunas asked Mr. King on the generator status of the facility. Mr. King stated that they were a small generator. The inspection team reviewed manifests and land disposal restrictions. The manifest records indicated that shipment on November 27, 2007 was 5,955 gallons and that the facility generated 17,510 gallons of acetone in 2007 and a total of 23,100 gallons of acetone since the facility has been in operation at the location (September 2005). Mr. King estimated that they began collecting acetone at the location in January / February 2006. Inspector Atkociunas informed Mr. King that a small quantity generator can only accumulate 6,000 kilograms of hazardous waste at the facility and that 5,955 gallons of acetone would weigh more than 6,000 kilograms. Based upon the manifest records, it appeared that the facility may have accumulated hazardous waste for more than 90-days. The first shipment of hazardous waste from the installation occurred December 2006. Inspector Atkociunas requested, and received copies of four hazardous waste manifests from Mr. King. The inspection team informed Mr. King that large quantity generators can only accumulate hazardous waste for up to 90-days.

The inspection team requested to review the contingency plan, the hazardous waste training program, copies of inspection records for hazardous waste accumulation areas, and the contingency plan. Mr. King provided training records for a Department of Transportation certification that were dated August 2002. Mr. King could not provide the remainder of the records requested.

Inspector Atkociunas asked Mr. King if the facility maintained emergency equipment at the facility. Mr. King stated that they had floor dry at their other facility, but they did not have spill equipment at this location. Inspector Atkociunas asked about training for employees who manage the hazardous waste; Mr. King stated that he is the one who pours out the acetone but could not provide records / documents for training to employees regarding hazardous waste management including emergency response / evacuation procedures. Inspector Atkociunas also expressed concern that that facility accumulated a substantial amount of flammable liquid in the building.

CLOSING CONFERENCE:

The inspection team conducted a closing conference with Mr. King. The inspection team expressed concern that Cylinder Processors did not provide documentation on a hazardous waste management / emergency response training program, failed to have a contingency plan, and failed to provide inspection records of hazardous waste accumulation areas. The inspection team also stated that large quantity generators can accumulate hazardous for up to 90-days. The inspection team expressed concern about the amount of hazardous waste accumulated at the facility.

ATTACHMENTS:

Attachment 1	Large Quantity Generator Checklist
Attachment 2	Guidance on Collection of Acetone from Acetylene Cylinders
Attachment 3	Photograph Log

Attachment 1

Large Quantity Generator Checklist

**LARGE QUANTITY GENERATOR REQUIREMENTS
COMPLETE AND ATTACH A PROCESS DESCRIPTION SUMMARY**

CESQG: #100Kg. (Approximately 25-30 gallons) of waste in a calendar month or < 1 Kg. of acutely hazardous waste.

SQG: Between 100 and 1,000 Kg. (About 25 to under 300 gallons) of waste in a calendar month.

LQG: ≥1,000 Kg. (~300 gallons) of waste in a calendar month or ≥1 Kg. of acutely hazardous waste in a calendar month.

NOTE: To convert from gallons to pounds: Amount in gallons x Specific Gravity x 8.345 = Amounts in pounds.

Safety Equipment Used:

GENERAL REQUIREMENTS

- | | | | | | | |
|---|-----|-------------------------------------|----|-------------------------------------|-----|-------------------------------------|
| 1. Have all wastes generated at the facility been adequately evaluated? [3745-52-11] | Yes | <input checked="" type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input type="checkbox"/> |
| 2. Are records of waste determination being kept for at least 3 years? [3745-52-40(C)] | Yes | <input checked="" type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input type="checkbox"/> |
| 3. Has the generator obtained a U.S. EPA identification number? [3745-52-12] | Yes | <input checked="" type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input type="checkbox"/> |
| 4. Were annual reports filed with Ohio EPA on or before March 1 st ? [3745-52-41(A)] | Yes | <input checked="" type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input type="checkbox"/> |
| 5. Are annual reports kept on file for at least 3 years? [3745-52-40(B)] | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input checked="" type="checkbox"/> |
| 6. Has the generator transported or caused to be transported hazardous waste to other than a facility authorized to manage the hazardous waste? [ORC 3734.02(F)] | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input type="checkbox"/> |
| 7. Has the generator disposed of hazardous waste on-site without a permit or at another facility other than a facility authorized to dispose of the hazardous waste? [ORC 3734.02(E) & (F)] | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input type="checkbox"/> |
| 8. Does the generator accumulate hazardous waste? | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/> | N/A | <input type="checkbox"/> |

NOTE: If the LQG does not accumulate or treat hazardous waste, it is not subject to 52-34 standards. All other requirements still apply, e.g., annual reports, manifest, marking, record keeping, LDR, etc.

- | | | | | | | |
|--|-----|-------------------------------------|----|--------------------------|-----|--------------------------|
| 9. Has the generator accumulated hazardous waste on-site in excess of 90 days without a permit or an extension from the director ORC §3734.02 (E) & (F)? | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/> | N/A | <input type="checkbox"/> |
|--|-----|-------------------------------------|----|--------------------------|-----|--------------------------|

NOTE: If F006 waste is generated and accumulated for > 90 days and is recycled see 3745-52-34(G) & (H).

- MANIFEST
RECORDS INDICATE
790d STORAGE

- | | | | | | | |
|---|-----|--------------------------|----|-------------------------------------|-----|--------------------------|
| 10. Does the generator treat hazardous waste in a: [ORC 3734.02(E)&(F)] | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input type="checkbox"/> |
| a. Container that meets 3745-66-70 to 3745-66-77? | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input type="checkbox"/> |
| b. Tank that meets 3745-66-90 to 3745-66-101 except 3745-66-97 (C)? | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input type="checkbox"/> |
| c. Drip pads that meet 3745-69-40 to 3745-69-45? | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input type="checkbox"/> |
| d. Containment building that meets 3745-256-100 to 3745-256-102? | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input type="checkbox"/> |

NOTE: Complete appropriate checklist for each unit.

NOTE: If waste is treated to meet LDRs, use LDR checklist.

- | | | | | | | |
|---|-----|--------------------------|----|-------------------------------------|-----|-------------------------------------|
| 11. Does the generator export hazardous waste? If so: | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input type="checkbox"/> |
| a. Has the generator notified U.S. EPA of export activity? [3745-52-53(A)] | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input checked="" type="checkbox"/> |
| b. Has the generator complied with special manifest requirements? [3745-52-54] | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input checked="" type="checkbox"/> |
| c. For manifests that have not been returned to the generator: has an exception report been filed? [3745-52-55] | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input checked="" type="checkbox"/> |
| d. Has an annual report been submitted to U.S. EPA? [3745-52-56] | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input checked="" type="checkbox"/> |
| e. Are export related documents being maintained on-site? [3745-52-57(A)] | Yes | <input type="checkbox"/> | No | <input checked="" type="checkbox"/> | N/A | <input checked="" type="checkbox"/> |

MANIFEST REQUIREMENTS

- | | | | | | | |
|--|-----|-------------------------------------|----|--------------------------|-----|--------------------------|
| 12. Have all hazardous wastes shipped off-site been accompanied by a manifest? (U.S. EPA Form 8700-22) [3745-52-20(A)] | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/> | N/A | <input type="checkbox"/> |
| 13. Have items (1) through (20) of each manifest been completed? [3745-52-20(A)] | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/> | N/A | <input type="checkbox"/> |

VOTE: U.S. EPA Form 8700-22(A) (the continuation form) may be needed in addition to Form 8700-22. In these situations items (21) through (35) must also be completed. [3745-52-20(A)]

- | | | | | | | |
|---|-----|-------------------------------------|----|--------------------------|-----|--------------------------|
| 4. Does each manifest designate at least one facility which is permitted to handle the waste? [3745-52-20(B)] | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/> | N/A | <input type="checkbox"/> |
|---|-----|-------------------------------------|----|--------------------------|-----|--------------------------|

VOTE: The generator may designate on the manifest one alternate facility to handle the waste in the event of an emergency which prevents the delivery of waste to the primary designated facility. [3745-52-20(C)].

- | | | | | | | |
|--|-----|--------------------------|----|--------------------------|-----|-------------------------------------|
| 5. If the transporter was unable to deliver a shipment of hazardous waste to the designated facility did the generator designate an alternate TSD facility or give the transporter instructions to return the waste? [3745-52-20(D)] | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> | N/A | <input checked="" type="checkbox"/> |
|--|-----|--------------------------|----|--------------------------|-----|-------------------------------------|

- | | | | | | | |
|--|-----|-------------------------------------|----|--------------------------|-----|--------------------------|
| 6. Have the manifests been signed by the generator and initial transporter? [3745-52-23(A)(1) & (2)] | Yes | <input checked="" type="checkbox"/> | No | <input type="checkbox"/> | N/A | <input type="checkbox"/> |
|--|-----|-------------------------------------|----|--------------------------|-----|--------------------------|

[Facility Name/Inspection Date]

[ID number]

LQG/February 2007

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NOTE: Remind the generator that the certification statement they signed indicates: 1) they have properly prepared the shipment for transportation and 2) they have a program in place to reduce the volume and toxicity waste they generate.

17. If the generator did not receive a return copy of each completed manifest within 35 days of the waste being accepted by the transporter did the generator contact the transporter and/or TSD facility to check on the status of the waste? [3745-52-42(A)(1)] Yes ☐ No ☒ N/A ☒

If the generator has not received the manifest within 45 days, did the generator file an exception report with Ohio EPA? [3745-52-42(A)(2)] Yes ☐ No ☒ N/A ☒

19. Are signed copies of all manifests and any exception reports being retained for at least three years? [3745-52-40] Yes ☒ No ☐ N/A ☐

NOTE: Waste generated at one location and transported along a publicly accessible road for temporary consolidated storage or treatment on a contiguous property also owned by the same person is not considered "on-site" and manifesting and transporter requirements must be met. To transport "along" a public right-of-way the destination facility has to act as a transfer facility or have a permit because this is considered to be "off-site." For additional information see the definition of "on-site" in OAC rule 3745-50-10.

PERSONNEL TRAINING

20. Does the generator have a training program which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to their positions? [3745-65-16(A)(2)] Yes ☐ No ☒ N/A ☐

21. Does the personnel training program, at a minimum, include instructions to ensure that facility personnel are able to respond effectively to emergencies involving hazardous waste by familiarizing them with emergency procedures, emergency equipment and emergency systems (where applicable)? [3745-65-16(A)(3)(a-f)] Yes ☐ No ☒ N/A ☐

22. Is the personnel training program directed by a person trained in hazardous waste management procedures? [3745-65-16(A)(2)] Yes ☐ No ☒ N/A ☐

23. Do new employees receive training within six months after the date of hire (or assignment to a new position)? [3745-65-16(B)] Yes ☐ No ☒ N/A ☐

24. Does the generator provide annual refresher training to employees? [3745-65-16(C)] Yes ☐ No ☒ N/A ☐

25. Does the generator keep records and documentation of:

a. Job titles [3745-65-16D(1)]? Yes ☐ No ☒ N/A ☐

b. Job descriptions [3745-65-16D(2)]? Yes ☐ No ☒ N/A ☐

c. Type and amount of training given to each person [3745-65-16D(3)]? Yes ☐ No ☒ N/A ☐

d. Completed training or job experience required [3745-65-16D(4)]? Yes ☐ No ☒ N/A ☐

26. Are training records for current personnel kept until closure of the facility and are training records for former employees kept for at least three years from the date the employee last worked at the facility? [3745-65-16(E)] Yes ☐ No ☒ N/A ☐

NOTE: The following section can be used by the inspector to document that all personnel who are involved with hazardous waste management have been trained. The employees who need training (written and/or on-the-job) may include the following: environmental coordinators, drum handlers, emergency coordinators, personnel who conduct hazardous waste inspections, emergency response teams, personnel who prepare manifest, etc.

Job Performed	Name of Employee	Date Trained

CONTINGENCY PLAN

27. Does the owner/operator have a contingency plan to minimize hazards to human health or the environment from fires, explosions or any unplanned release of hazardous waste? [3745-65-51(A)] Yes ☐ No ☒ N/A ☐

28. Does the plan describe the following:

a. Actions to be taken in response to fires, explosions or any unplanned release of hazardous waste [3745-65-52(A)]? Yes ☐ No ☒ N/A ☐

b. Arrangements with emergency authorities [3745-65-52(C)]. Yes ☐ No ☒ N/A ☐

c. A current list of names, addresses and telephone numbers (office and home) of all persons qualified to act as emergency coordinator? [3745-65-52(D)] Yes ☐ No ☒ N/A ☐

A list of all emergency equipment, including: location, a physical description and brief outline of capabilities? [3745-65-52(E)] Yes ☐ No ☒ N/A ☐

[Facility Name/Inspection Date]

[ID number]

LQG/February 2007

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- e. An evacuation plan for facility personnel where there is possibility that evacuation may be necessary? [3745-65-52(F)] Yes ☐ No ☒ N/A ☐

NOTE: If the facility already has a "Spill Prevention, Control and Counter measures Plan" under CFR Part 112 or 40 CFR Part 1510, or some other emergency plan, the facility can amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with OAC requirements. [3745-65-52(B)]

29. Is a copy of the plan (plus revisions) kept on-site and been given to all emergency authorities that may be requested to provide emergency services? [3745-65-53 (A) & (B)] Yes ☐ No ☒ N/A ☐

30. Has the generator revised the plan in response to rule changes, facility, equipment and personnel changes, or failure of the plan? [3745-65-54] Yes ☐ No ☒ N/A ☐

31. Is an emergency coordinator available at all times (on-site or on-call)? [3745-65-55] Yes ☐ No ☒ N/A ☐

NOTE: The emergency coordinator shall be thoroughly familiar with: (a) all aspects of the facility's contingency plan; (b) all operations and activities at the facility; (c) the location and characteristics of waste handled; (d) the location of all records within the facility; (e) facility layout; and (f) shall have the authority to commit the resources needed to implement provisions of the contingency plan.

EMERGENCY PROCEDURES

32. Has there been a fire, explosion or release of hazardous waste or hazardous waste constituents since the last inspection? If so: Yes ☐ No ☒ N/A ☐

- a. Was the contingency plan implemented? [3745-65-51(B)] Yes ☐ No ☐ N/A ☒

- b. Did the facility follow the emergency procedures in 3745-65-56(A) through (H)? Yes ☐ No ☐ N/A ☒

- c. Did the facility submit a report to the Director within 15 days of the incident as required by 3745-65-56(J)? Yes ☐ No ☐ N/A ☒

NOTE: OAC 3745-65-51(b) requires that the contingency plan be implemented immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents, which could threaten human health and the environment.

PREPAREDNESS AND PREVENTION

33. Is the facility operated to minimize the possibility of fire, explosion, or any unplanned release of hazardous waste? [3745-65-31] Yes ☒ No ☐ N/A ☐

34. Does the generator have the following equipment at the facility, if it is required due to actual hazards associated with the waste:

- a. Internal communications or alarm system? [3745-65-32(A)] Yes ☒ No ☐ N/A ☐

- b. Emergency communication device? [3745-65-32(B)] Yes ☒ No ☐ N/A ☐

- c. Portable fire control, spill control and decon equipment? [3745-65-32(C)] Yes ☐ No ☒ N/A ☐

- d. Water of adequate volume/pressure per documentation or facility rep? [3745-65-32(D)] Yes ☐ No ☒ N/A ☐

NOTE: Verify that the equipment is listed in the contingency plan.

35. Is emergency equipment tested (inspected) as necessary to ensure its proper operation in time of emergency? [3745-65-33] Yes ☐ No ☒ N/A ☐

36. Are emergency equipment tests (inspections) recorded in a log or summary? [3745-65-33] Yes ☐ No ☒ N/A ☐

37. Do personnel have immediate access to an internal alarm or emergency communication device when handling hazardous waste (unless the device is not required under 3745-65-32)? [3745-65-34(A)] Yes ☒ No ☐ N/A ☐

38. If there is only one employee on the premises, is there immediate access to a device (ex. phone, hand held two-way radio) capable of summoning external emergency assistance? (Unless not required under 3745-65-32) [3745-65-34(B)] Yes ☒ No ☐ N/A ☐

39. Is adequate aisle space provided for unobstructed movement of emergency or spill control equipment? [3745-65-35] Yes ☐ No ☐ N/A ☒

40. Has the generator attempted to familiarize emergency authorities with possible hazards and facility layouts? [3745-65-37(A)] Yes ☒ No ☐ N/A ☐

41. Where authorities have declined to enter into arrangements or agreements, has the generator documented such a refusal? [3745-65-37(B)] Yes ☐ No ☐ N/A ☒

SATELLITE ACCUMULATION AREA REQUIREMENTS

42. Does the generator ensure that satellite accumulation area(s):

- a. Are at or near a point of generation? [3745-52-34(C)(1)] Yes ☐ No ☐ N/A ☒

- b. Are under the control of the operator of the process generating the waste? [3745-52-34(C)(1)] Yes ☐ No ☐ N/A ☒

- c. Do not exceed a total of 55 gallons of hazardous waste per waste stream? [3745-52-34(C)(1)] Yes ☐ No ☐ N/A ☒

[Facility Name/Inspection Date]

[ID number]

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- d. Do not exceed one quart of acutely hazardous waste at any one time? [3745-52-34(C)(1)] Yes ☐ No ☐ N/A ☒
- e. Containers are closed, in good condition and compatible with wastes stored in them? [3745-52-34(C)(1)(a)] Yes ☐ No ☐ N/A ☒
- f. Containers are marked with words "Hazardous Waste" or other words identifying the contents? [3745-52-34(C)(1)(b)] Yes ☐ No ☐ N/A ☒
- +3. Is the generator accumulating hazardous waste(s) in excess of the amounts listed in the preceding question? If so: Yes ☐ No ☐ N/A ☒
- a. Did the generator comply with 3745-52-34(A)(1) through (4) or other applicable generator requirements within three days? [3745-52-34(C)(2)] Yes ☐ No ☐ N/A ☒
- b. Did the generator mark the container(s) holding excess with the accumulation date when the 55 gallon (one quart) limit was exceeded? [3745-52-34(C)(2)] Yes ☐ No ☐ N/A ☒

NOTE: The satellite accumulation area is limited to 55 gallons of hazardous waste accumulated from a distinct point of generation in the process under the control of the operator of the process generating the waste (less than 1 quart for acute hazardous waste). There could be individual waste streams accumulated in an area from different points of generation.

USE AND MANAGEMENT OF CONTAINERS IN <90 DAY ACCUMULATION AREAS

44. Has the generator marked containers with the words "Hazardous Waste?" [3745-52-34(A)(3)] Yes ☐ No ☐ N/A ☒
45. Is the accumulation date on each container? [3745-52-34(A)(2)] Yes ☐ No ☐ N/A ☒
46. Are hazardous wastes stored in containers which are:
- a. Closed (except when adding/removing wastes)? [3745-66-73(A)] Yes ☐ No ☐ N/A ☒
- b. In good condition? [3745-66-71] Yes ☐ No ☐ N/A ☒
- c. Compatible with wastes stored in them? [3745-66-72] Yes ☐ No ☐ N/A ☒
- d. Handled in a manner which prevents rupture/leakage? [3745-66-73(B)] Yes ☐ No ☐ N/A ☒

NOTE: Record location on process summary sheets, photograph the area, and record on facility map.

47. Is the container accumulation areas(s) inspected weekly? [3745-66-74] Per ORC §1.44(A) "Week" means 7 consecutive days. Yes ☒ No ☐ N/A ☐
- a. Are inspections recorded in a log or summary? [3745-66-74] Yes ☐ No ☒ N/A ☐
48. Are containers of ignitable or reactive wastes located at least 50 feet (15 meters) from the facility's property line? [3745-66-76] Yes ☒ No ☒ N/A ☐
49. Are containers of incompatible wastes stored separately from each other by means of a dike, berm, wall or other device? [3745-66-77(C)] Yes ☐ No ☐ N/A ☒
50. If the generator places incompatible wastes, or incompatible wastes and materials in the same container, is it done in accordance with 3745-65-17(B)? [3745-66-77(A)] Yes ☐ No ☐ N/A ☒
51. If the generator places hazardous waste in an unwashed container that previously held an incompatible waste, is it done in accordance with 3745-65-17(B)? [3745-66-77(B)] Yes ☐ No ☐ N/A ☒

NOTE: OAC 3745-65-17(B) requires that the generator treat, store, or dispose of ignitable or reactive waste, and the mixture or commingling of incompatible wastes, or incompatible wastes and materials so that it does not create undesirable conditions or threaten human health or the environment.

52. If the generator has closed a <90 day accumulation area does the closure appear to have met the closure performance standard of 3745-66-11? [3745-52-34(A)(1)] Yes ☐ No ☐ N/A ☒

NOTE: Please provide a description of the unit and documentation provided by the generator for the file to demonstrate that closure was completed in accordance with the closure performance standards. If the generator has closed a <90 day tank, closure must also be completed in accordance with OAC 3745-66-97 (except for paragraph C of this rule). [3745-52-34]

PRE-TRANSPORT REQUIREMENTS

53. Does the generator package/label its hazardous waste in accordance with the applicable DOT regulations? [3745-52-30, 3745-52-31 and 3745-52-32(A)] Yes ☐ No ☐ N/A ☒
54. Does each container <110 gallons have a completed hazardous waste label? [3745-52-32(B)] Yes ☐ No ☐ N/A ☒
55. Before off-site transportation, does the generator placard or offer the appropriate DOT placards to the initial transporter? [3745-52-33] Yes ☐ No ☐ N/A ☒

[Facility Name/Inspection Date]

[ID number]

LQG/February 2007

Page 4 of 4

Attachment 2

Guidance on Collection of Acetone from Acetylene Cylinders



State of Ohio Environmental Protection Agency

RECEIVED
OHIO EPA

MAR 13 2002

STREET ADDRESS:

Lazarus Government Center
122 S. Front Street
Columbus, OH 43215-1099

TELE: (614) 644-3020 FAX: (614) 644-2329

MAILING ADDRESS:

SOUTHWEST DISTRICT
P.O. Box 1049
Columbus, OH 43216-1049

March 6, 2002

Carl Johnson, President
Compressed Gas Association, Inc.
4221 Walney Road 5th Floor
Chantilly, Virginia 20151-2923

Re: Acetylene Cylinders

Dear Mr. Johnson:

In an effort to resolve the issue of whether or not acetylene cylinders that are at atmospheric pressure and are intended for disposal contain a hazardous waste, Ohio EPA has had discussions with a representative of U.S. EPA headquarters. During those discussions, U.S. EPA provided us with a March 22, 1988, document entitled "Hotline Question and Answer with Matt Straus" (attached). That document was previously unavailable to us. The U.S. EPA representative told us that they are not prepared to change the conclusions stated in that document.

In that document, U.S. EPA concludes that the entire cylinder, including the filler and acetone residue, is a solid waste when the user decides it is not fit for further use. The document states that no listings apply to the cylinder. Furthermore, if the cylinder exhibits a characteristic of hazardous waste, the empty container regulations of 40 CFR part 261.7 (Ohio Administrative Code (OAC) rule 3745-51-07) govern when the cylinder is empty. Under this rule, the cylinder is empty when the pressure in it approaches atmospheric pressure. The empty container rule provides that any hazardous waste remaining in an empty container is not subject to regulation as a hazardous waste.

Considering U.S. EPA's analysis of acetylene cylinders, coupled with the fact that Ohio's empty container rule is virtually identical to the federal rule, we will not regulate discarded acetylene cylinders as hazardous waste. That being said, please disregard the conclusions we presented to you in our June 1, 2001 and our October 3, 2000 letters to Cylinder Processors Incorporated.

We believe that the recovery of acetone and recycling of steel cylinders will conserve valuable resources. We are aware of two companies that will provide acetone recovery services. In addition, there is a considerable amount of steel in the cylinder that can be recycled.

Bob Taft, Governor
Maureen O'Connor, Lieutenant Governor
Christopher Jones, Director

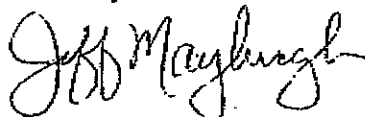


Carl Johnson, President
Compressed Gas Association, Inc.
March 6, 2002
Page 2

Nothing that has been presented in our discussions has provided evidence that the acetone contained in the cylinder will not be released to the environment after disposal. Therefore, we still believe that the acetone remaining in the cylinder may be released from the cylinder when it is disposed. Such a release may pose a threat to human health and the environment. We also believe that there is a potential for harm to anyone who improperly manages scrap acetylene cylinders before they have been properly disposed.

I hope that this letter resolves this issue for you and your members. Again, if you have any questions, please feel free to contact me at (614) 644-2950.

Sincerely,



Jeff Mayhugh, Environmental Supervisor
Technical Support Unit
Information Technologies and Technical Support Section
Division of Hazardous Waste Management

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cc: Pamela S. Allen, Manager, ITTSS, DHWM
Todd Anderson, Legal
Al Franks, Directors Office
Rose Connelly, TSU, ITTSS, DHWM
Harold O'Connell, SWDO, DHWM
Judy Kleiman, Region 5, U.S. EPA



State of Ohio Environmental Protection Agency

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JUN 26 2002

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P.O. Box 1049
Columbus, OH 43218-1049

SOUTHWEST DISTRICT

June 19, 2002

Mr. Richard L. Schultz
Cylinder Processors Incorporated
1223 Budd Street
Cincinnati, Ohio 45203

Re: Acetylene Cylinder Management and Disposal in Ohio

Dear Mr. Schultz:

I apologize for the amount of time it has taken me to finalize Ohio EPA, Division of Hazardous Waste Management's (DHWM) determination regarding acetylene cylinder management and disposal in Ohio. In an effort to resolve the issue of whether or not acetylene cylinders that are at atmospheric pressure and are intended for disposal contain a hazardous waste, DHWM visited Cylinder Processors Incorporated (CPI) on January 3, 2002. Following DHWM's visit to your facility, we forwarded our site visit notes and photographs to Jim O'Leary at U.S. EPA. U.S. EPA then provided DHWM with a March 22, 1998, document entitled, "Hotline Questions and Answers with Matt Strauss." That document was previously unavailable to us. The U.S. EPA representative told us that they are not prepared to change the conclusions stated in that document.

In that document, U.S. EPA concluded that the entire cylinder, including the filler and acetone residue, is a solid waste when the user decides it is not fit for further use. The document states that no listings apply to the cylinder. Furthermore, if the cylinder exhibits a characteristic of hazardous waste, the empty container regulations of 40 CFR part 261.7 (Ohio Administrative Code (OAC) rule 3745-51-07) govern when the cylinder is empty. Under this rule, the cylinder is empty when the pressure in it approaches atmospheric pressure. The empty container rule provides that any hazardous waste remaining in an empty container is not subject to regulation as a hazardous waste.

On October 3, 2000, we told CPI that empty acetylene cylinders containing acetone will not be considered empty until acetone has been removed according to OAC rule 3745-51-07(B)(1)(a)(b)&(c). Since CPI was accepting acetylene cylinders for removal of acetone, DHWM concluded that CPI would need a hazardous waste installation and operation permit for storage of the cylinders prior to removing the acetone. Based on this interpretation, we asked CPI to submit a written compliance schedule.

Bob Taft, Governor
Maureen O'Connor, Lieutenant Governor
Christopher Jones, Director



Mr. Richard L. Schultz
Cylinder Processors Incorporated
June 19, 2002
Page 2

Ohio EPA sent a follow-up letter to CPI on November 17, 2000, to offer guidance on what CPI should do until they get a permit. The letter explained to CPI that to allow CPI to continue operating, DHWM was willing to recommend to the Director that we put CPI on an enforceable compliance schedule in the form of a Director's Final Findings and Orders. Otherwise, if CPI decided not to pursue a hazardous waste permit, CPI would have to immediately and permanently cease the receipt of hazardous waste acetylene cylinders.

This letter is to inform you that considering U.S. EPA's analysis of acetylene cylinders, coupled with the fact that Ohio's empty container rule is virtually identical to the federal rule, DHWM determined that we will not regulate discarded acetylene cylinders as hazardous waste. That being said, we ask you to please disregard the conclusions DHWM presented in our June 1, 2001, and our October 3, 2000, letters to you.

Despite DHWM's new determination, we believe that recovery of acetone and recycling of steel cylinders will conserve valuable resources. In addition, there is a considerable amount of steel in the cylinder that can be recycled. We still believe that the acetone remaining in the cylinder may be released from the cylinder when it is disposed. Such a release may pose a threat to human health and the environment. We also believe that there is a potential for harm to anyone who improperly manages scrap acetylene cylinders before they have been properly disposed.

I hope this letter resolves this issue for you and your customers. Again, if you have any questions regarding acetylene cylinder management or disposal, please contact me at (614) 644-2917.

Sincerely,


Rose Connelly
Regulatory & Information Services
Division of Hazardous Waste Management

g:\users\rconnelly\ltsu\letters\cpi_schultz6.19.02.wpd

cc: Jeff Mayhugh, Supervisor, RIS, DHWM
Harold O'Connell, Supervisor, SWDO, DHWM

Ohio Hazardous Waste

Notifier

A Publication of Ohio EPA, Division of Hazardous Waste Management

Acetylene Cylinder Determination Superseded

Ohio EPA will now consider spent acetylene cylinders to be empty containers if they are at or near atmospheric pressure. The Winter 2001 Notifier contained an article titled, "Acetylene Cylinder Management and Disposal," (<http://www.epa.state.oh.us/dhwm/pdf/winter2001notifier.pdf>) which addressed the subject of acetone remaining in acetylene cylinders. The Winter 2001 article, the October 3, 2000, Ohio EPA letter that the article addressed, and the June 1, 2001, follow-up letter to Cylinder Processors, Inc. (CPI) have been superseded by a letter from Ohio EPA, Division of Hazardous Waste Management (DHWM) to the Compressed Gas Association, Inc. (CGA), dated March 6, 2002. In this letter, DHWM conveyed U.S. EPA's conclusions on acetylene cylinders and asked CGA to disregard the conclusions DHWM presented in our June 1, 2001, and October 3, 2000, letters to CPI.

As a result of conversations with the CGA, Ohio EPA asked U.S. EPA headquarters for its interpretation. U.S. EPA stood by the determination made in a document entitled "Hotline Question and Answer with Matt Straus." This document was not previously available to Ohio EPA. In that document, U.S. EPA concluded that the entire cylinder, including the filler and acetone residue, is a solid waste when the user decides it is not fit for further use. The document

states that no listings apply to the cylinder. Furthermore, if the cylinder exhibits a characteristic of hazardous waste, the empty container regulations of 40 CFR part 261.7 (Ohio Administrative Code rule 3745-51-07) govern when the cylinder is empty. Under this rule, the cylinder is empty when the pressure in it approaches atmospheric pressure. The empty container rule provides that any hazardous waste remaining in an empty container is not subject to regulation as a hazardous waste.

Despite DHWM's new determination, we believe that recovery of acetone and recycling of steel cylinders will conserve valuable resources. We are aware of two companies that provide acetone recovery services. In addition, there is a considerable amount of steel in the cylinder that can be recycled.

In our discussions with the CGA, no information has been provided that demonstrates that the acetone contained in the cylinder will not be released to the environment after disposal. Therefore, we still believe that the acetone remaining in the cylinder may be released from the cylinder when it is disposed. Such a release may pose a threat to human health and the environment. We also believe that there is a potential for harm to anyone who improperly manages scrap acetylene cylinders before they have been properly emptied of acetone.

If you have questions regarding acetylene cylinder management or disposal, please contact Rose Connelly or Jeff Mayhugh at (614) 644-2917.


Batteries,
Batteries,
Batteries!

If it's rechargeable, it's recyclable. That's the simple message of the Rechargeable Battery Recycling Corporation (RBRC). RBRC is a non-profit public service organization that operates the "Charge Up to Recycle" program in the United States and Canada. Its mission is to conserve the environment and preserve natural resources by diverting small rechargeable batteries for recycling from our nation's solid waste stream.

Types of rechargeable batteries they now can handle include: nickel metal hydride (Ni-MH), lithiumion (Li-ion), Small Sealed Lead (Pb) and nickel cadmium (Ni-Cd).

continued on page 5...

Ohio EPA Provides Low-Level Mixed Waste Generators and Facilities Increased Flexibility


 On May 16, 2001, U.S. EPA finalized its regulatory proposal to provide increased flexibility to facilities that manage low-level mixed waste (LLMW) and technologically enhanced naturally occurring and/or accelerator-produced radioactive material (NARM) containing hazardous waste. The rules became effective on November 13, 2001.

Since Ohio is planning to adopt these rules in 2003, the Division of Hazardous Waste Management (DHWM) has decided to allow generators and facilities to comply with the provisions in the federal rules (40 CFR §§ 266.210 through 266.260 and 266.305 through 266.360) until Ohio adopts these rules.

Here is a letter from the chief of DHWM concerning this issue: <http://www.epa.state.oh.us/dhwm/pdf/LLMixed.waste.pdf>

Here is a Web address for additional information regarding the federal rulemaking: <http://www.epa.gov/epaoswer/hazwaste/radio/>

Here is the Web address for the Federal Register notice: <http://www.epa.gov/epve/fedrgstra/EPA-WASTE/2001/May/Day-16/f11408.pdf>

If you have any question concerning these requirements, please call Jeff Mayhugh at (614) 644-2980. 

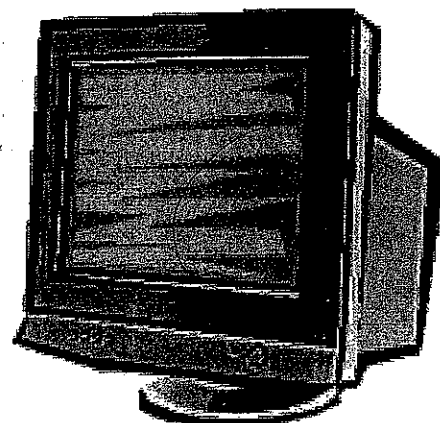
Ask the Inspector

Q: I have heard that discarded computer monitors can be hazardous waste. Is this true? If it is, then how should my company dispose of them?

A device called a cathode ray tube (CRT) is the major component of computer monitors, televisions and other devices that provide the user with images. CRTs that produce colored images contain between four and eight pounds of lead. Lead is a toxic heavy metal and is hazardous when released into the environment. Because a CRT contains so much lead, it will likely exhibit the hazardous characteristic of toxicity for lead.

Ohio's hazardous waste rules provide that a waste that exhibits the characteristic of toxicity for certain hazardous constituents is a hazardous waste and must be stored, transported, treated and disposed of in compliance with certain hazardous waste management standards. Ohio's hazardous waste law specifies the toxicity characteristic leaching procedure (TCLP) to determine if a waste exhibits the characteristic of toxicity. OAC rule 3745-51-24 describes this characteristic. This analytical method simulates how a waste could leach toxic constituents listed in this rule into a landfill over time. This rule lists a leachable concentration of 5 ppm for lead.

If you intend to discard your old computer monitors, you must first determine if they are hazardous waste. If they are hazardous waste, you must manage them according to all applicable hazardous waste rules. As an alternative to disposal, Ohio EPA encourages the recycling of waste when possible. Ohio EPA considers computer monitors to be characteristic byproducts or commercial chemical products when recycled. Ohio Administrative Code rule 3745-



51-02, Table 1, provides that byproducts or commercial products exhibiting a characteristic of hazardous waste that are reclaimed (recycled) are not wastes as long as the recycling does not involve them being placed on the ground or being burned for energy recovery.

The Division of Hazardous Waste Management's Web site lists companies that accept computers and monitors for recycling. Some of these companies refurbish computers and components, while others only collect and then send computers and components to other facilities that recycle them.

www.cpa.most.org.pl/computer.html
www.pcmag.com/article
www.svtc.org/cleancc/pubs/ppc-ttv1.pdf
www.epa.state.oh.us/dhwm/lamprecycler.html

States and U.S. EPA are concerned that the number of CRTs improperly disposed of will increase dramatically in the next few years. On June 12, 2002, U.S. EPA published a proposed CRT management rule to help streamline the management of CRTs. If you want to see how they propose to regulate CRTs, go to: <http://www.epa.gov/epaoswer/hazwaste/recycle/electron/crt.htm>.

If you want to learn more about CRTs, go to: www.ees.ufl.edu/hompp/townsend/research/crt/crtmain.htm.

Q: Where Do All These Hazardous Waste Rules Come From?

Ohio EPA bases most of its hazardous waste rules on U.S. EPA's hazardous waste rules. We do this for two reasons. One, Ohio EPA wishes to maintain a hazardous waste program that is authorized by U.S. EPA. To be authorized, U.S. EPA requires that Ohio EPA adopt hazardous waste rules at the state level that are equivalent to and no less stringent than the federal hazardous waste rules. And two, Ohio law requires that Ohio EPA adopt hazardous waste rules that are consistent with and equivalent to the hazardous waste rules adopted by U.S. EPA. Ohio's law allows our hazardous waste program to be different than the federal program in a few areas.

When Ohio EPA proceeds with rulemaking to adopt hazardous waste rules, we have very little latitude or statutory authority to change the requirements of the rules from those of their federal counterpart rules. We encourage you to comment during our rulemaking process, but we usually cannot make substantive rule changes. The best time for you to participate in the hazardous waste rulemaking process and suggest substantive changes to a rule is when U.S. EPA proposes the rule. You can learn what hazardous waste rules U.S. EPA has out for public comment by checking the **Federal Register**.

The **Federal Register** is a daily publication of federal agency documents having general public interest such as proposed and final rules, presidential proclamations and executive orders. It can be accessed online at <http://www.epa.gov/fedrgstr>.

Or, you may subscribe to U.S. EPA's Waste listserver which will notify you by e-mail when a notice, proposed rule, or final rule regarding hazardous waste is published in the **Federal Register**. You can subscribe

to the listserver at the following Web address: <http://www.epa.gov/fedrgstr/subscribe.htm>.

Q: How Do I know that I've Adequately Evaluated My Waste?

If you are going to discard any material from your business, Ohio Administrative Code (OAC) rule 3745-52-11 requires you to determine if the waste is a hazardous waste. As the generator, you are in the best position to evaluate the waste because you have knowledge of the manufacturing activity and the raw materials used in the process that generated the waste.

The waste evaluation rule provides step-by-step instructions on how to evaluate your waste. These include:

1. **Determining if your hazardous waste is excluded from regulation** as defined by OAC rule 3745-51-04. To determine if your hazardous waste is an excluded hazardous waste, you need to compare your hazardous waste to the descriptions found in OAC rule 3745-51-04. For example, shredded circuit boards being recycled are excluded provided they are free of mercury switches, mercury relays, nickel-cadmium batteries and lithium batteries and they are stored in a manner consistent with the management requirements of the rule.
2. **Determining if the waste is defined as a listed hazardous waste** in OAC rules 3745-51-30 to 3745-51-33. U.S. EPA has identified certain materials to be "listed" hazardous waste. To determine if your waste is a listed waste, you need to review the list of hazardous wastes found in OAC rules 3745-51-31 to 3745-51-33. For example, if your waste consists of spent cyanide plating bath solutions from electroplating operations, your waste would meet the listing description for "F007" hazardous waste.
3. **Determining if the waste exhibits a hazardous characteristic** identified in OAC rules 3745-51-21 to 3745-51-24, if the criteria above do not apply. You can determine if your waste exhibits a characteristic of a hazardous waste using either knowledge of the hazardous characteristic in light of the process activity and raw materials used, or by analyzing a representative sample of the waste. When you choose to analyze the waste, the analysis must be done according to the methods found in OAC rules 3745-51-20 to 3745-51-24. You could choose to use a combination of generator knowledge and laboratory analysis by determining which hazardous waste characteristics the waste could not exhibit, then sampling and analyzing the waste for the hazardous waste characteristics that could be present. Whether you use knowledge or analysis to evaluate the waste, you must maintain documentation to support your claim that the waste is nonhazardous. Examples of documentation when you use knowledge can include material safety data sheets (MSDS) and product information for process materials.

OAC rule 3745-52-40(C) requires that you maintain records to document a waste evaluation for three years from the date you manifest the waste off site. You may be asked during a hazardous waste inspection to produce this documentation.

Ask the inspector

continued from page 3...

Failure to accurately evaluate your waste is considered to be a violation of OAC rule 3745-52-11. If you have concerns about your waste evaluation, Ohio EPA is available to help you. Discuss it with your district office inspector, or contact the Regulatory and Information Services Section at (614) 644-2917.

Q: What Category of Generator am I? Are there any hazardous waste rules that apply to me if I don't generate very much hazardous waste?

Different regulations apply to generators who generate different amounts of hazardous waste in a calendar month. There are three categories of generators in Ohio. All three must comply with some regulations ranging from simply evaluating their waste (to determine if it is hazardous) and making sure it gets to a permitted hazardous waste facility, to complying with detailed waste management regulations.

You must include all of the hazardous waste that you generate, except hazardous waste that is exempt, when determining your generator category.

Since your generator category is based on the total weight of hazardous waste you generate in a calendar month, and the specific regulations you must meet are determined by your generator category, you must accurately determine how much the hazardous waste weigh, in kilograms. You can do this simply by weighing the hazardous waste. If this is not possible, then you must use the density of the waste. If you don't

know the density of your waste, you can use the density of water to get a rough estimate. The density of water is 8.34 pounds/gallon. There are 2.2 pounds per kilogram. It is more accurate to use the density of the waste itself.

You must determine the total weight of the hazardous waste generated each calendar month in order to know which generator category you are in that month. Your waste generation rate for any particular month may vary enough that you will be subject to different hazardous waste generator classifications and therefore different hazardous waste generator rules from month to month.

If you generate less than 100 kilograms (220 pounds) of hazardous waste, or no more than one kilogram of acutely hazardous waste in a calendar month, you are considered to be a conditionally exempt small quantity generator (CESQG) for that waste. As a CESQG, you are subject to the requirements of (OAC) rule 3745-51-05.

There are only a few hazardous waste rules that apply to you as a CESQG. These rules require that you evaluate the waste you generate in accordance with OAC rule 3745-52-11 and ensure delivery of hazardous waste to an off-site permitted treatment, storage or disposal (TSD) facility as required by OAC rule 3745-51-05(C)(3).

If you ever generate between 100 and 1,000 kilograms of hazardous waste in a calendar month or if you accumulate quantities of hazardous waste on site in excess of 1,000 kilograms (if you are a CESQG), then you would be considered a small quantity generator (SQG) and would need to comply with the SQG rules referenced at OAC rule 3745-52-34(D).

A SQG may accumulate up to 6,000 kilograms of hazardous waste generated on site for 180 days or fewer without an Ohio hazardous waste permit. A SQG may accumulate hazardous waste on site for up to 270 days or fewer if that waste will be transported to a permitted TSD facility located 200 or more miles away. SQGs must have an emergency coordinator who can respond during an emergency. They must familiarize employees with proper waste handling and emergency procedures, and they must comply with the additional requirements set forth in OAC rule 3745-52-34(A)(2), 3745-52-34(A)(3) and 3745-52-34(D).

If you generate more than 1,000 kilograms (2,200 pounds) of hazardous waste or more than one kilogram of acutely hazardous waste in a month, you are considered a large quantity generator (LQG). LQGs may accumulate any quantity of hazardous waste on site for up to 90 days and must comply with OAC rule 3745-52-34(A). This rule references many requirements, some of which are manifesting, employee training, contingency planning, labeling and dating and inspections of areas where hazardous waste is stored.

A complete listing of the requirements for the different categories of generators is not provided in this article. If you want to learn more, go to the Web site at <http://www.epa.state.oh.us/dhwm/welcome.html> or call (614) 644-2917. While you're on the Web site, you can download the hazardous waste rules by choosing Laws & Regulations, then selecting Ohio Administrative Code (OAC). To read all DHWM hazardous waste rules that may apply to you, go to our website at <http://www.epa.state.oh.us/dhwm/welcome.html>.



Corrective Action Memorandum of Agreement with U.S. EPA

According to U.S. EPA's national database, there are 620 facilities in Ohio considered by Ohio EPA and U.S. EPA Region 5 to be subject to facility-wide Resource Conservation and Recovery Act (RCRA) Corrective Action requirements.

How did these facilities become subject to RCRA Corrective Action requirements?

Section 3004(u) of the RCRA statute states as follows: "... Permits issued after the date of the Hazardous and Solid Waste Amendments of 1984 by the administrator or a state shall require corrective action for all cases of hazardous waste or

constituents from any solid waste management unit at a treatment, storage or disposal facility seeking a permit under this subtitle, regardless of the time at which waste was placed in such unit. Permits issued under section 3005 shall contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing such corrective action."

If your facility at one time treated, stored or disposed of hazardous waste in a hazardous waste management unit - actions which subject a facility to permitting and closure requirements - the facility is subject to corrective action requirements. Even though most of the 620 facilities did not seek a final Part B permit for their treatment, storage or disposal activity, and instead chose to complete closure of their hazardous waste management unit(s), the facility remains subject to corrective action requirements.

Facilities who did seek and receive Part B permits were required by their permit to investigate actual and potential releases from their solid waste management units and, if necessary, implement corrective actions to address the releases. U.S. EPA Region 5, and to some extent Ohio EPA, have also relied on their respective administrative order authorities to impose facility investigation, and, if necessary, corrective action requirements. The facilities who have the greatest potential to negatively impact human health and the environment from their past waste management activities were the first to be required to fulfill their RCRA corrective action obligations. With increased effort by both U.S. EPA Region 5 and Ohio EPA over the past several years to move the investigations and cleanups at these facilities to completion more quickly, both agencies are now beginning to make plans to require the remaining



facilities who are subject to corrective action requirements to fulfill their obligations.

Ohio EPA and U.S. EPA Region 5 have a mutual goal of ensuring that facilities subject to RCRA corrective action requirements pose no threat to human health and the environment. Facilitating the re-use of these RCRA facilities, where that is a possibility, in order for their full economic potential to be realized, is also a goal of both agencies. In order to achieve these goals, and in recognition of the fact that limited resources are available to both agencies to require and oversee corrective action work, U.S. EPA Region 5 is supportive of allowing facilities to meet the requirements of state voluntary cleanup programs to fulfill their RCRA corrective action obligations.

Subsequent to U.S. EPA Region 5 and Ohio EPA entering into the Superfund Memorandum of Agreement for Ohio EPA's Brownfields and Voluntary Action Program (VAP) MOA track in July, 2001, U.S. EPA Region 5 stated its intent to enter into an agreement with Ohio EPA specifically for facilities subject to RCRA corrective action requirements. This agreement would express U.S. EPA's intent to not use its RCRA authorities to require corrective action as long as a facility that is eligible for the VAP (the facility is not required by a federal or state order or permit to perform corrective action) successfully fulfilled its obligations by meeting the regulatory requirements of Ohio's VAP. To qualify for the VAP, a

Batteries, Batteries, Batteries! *continued from page 1...*

As today's consumer becomes more mobile, demand increases for cordless electronic products. The rechargeable batteries to run all of those products eventually need replacing; this is where RBRC steps in. RBRC operates via a network of collection locations. They currently have the support of more than 38,000 participants. Participants include numerous national retailers, marketers of rechargeable batteries, communities, businesses and power tool manufacturers.

For more information on RBRC and a collection location nearest you, contact RBRC's help line at 1-800-8-BATTERY or www.rbrc.com. Recycle, don't throw it away!



continued on page 7...

Authorization Update

What is authorization?

RCRA authorization is the process by which U.S. EPA delegates its authority for primary enforcement and permitting to Ohio EPA. It is sometimes called "primacy" in other programs. RCRA authorization is accomplished for Ohio through the state's development of Authorization Revision Applications (ARAs), which demonstrate that the state's program meets the requirements for approval by U.S. EPA, in other words, the state's program is consistent and equivalent to the federal program portion.

ARAs contain a series of documents that may include an updated program description; a Memorandum of Agreement among Ohio EPA, the Hazardous Waste Facility Board, and U.S. EPA Region 5; references to the rules for which authorization is being sought; an attorney general's statement that attests to the legal adoption of the rules; and documentation of Ohio's capability to implement and administer the Ohio program. With U.S. EPA Region 5's review and approval of the ARA, the state is delegated the authority, or "authorized," for a particular rule. Authorized state rules operate in lieu of the corresponding federal rules. Authorization can only be granted for effective state rules, and does not affect compliance regulatory requirements.

What effect does authorization have on me?

Authorization neither alters the requirement to comply with any state rule nor does it create new state or federal requirements. Authorization does mean that any action taken by the state has the same force and effect as an action taken by U.S. EPA. The authorized portion of the state's program is implemented in lieu of federal implementation of the program. Ohio EPA, instead of U.S. EPA, becomes the primary regulatory agency for regulated entities in Ohio

for as much of the RCRA program as possible. Since authorization delegates primary enforcement and permitting authorities from U.S. EPA to Ohio EPA, the effect is found mostly in the context of permitting and enforcement.

In the enforcement context, once an applicable state rule becomes effective, you must comply with it, regardless of whether or not the state rule is authorized. However, until the rule is authorized, U.S. EPA may also enforce only its version of the rule and the state may enforce only its version of the rule. This is sometimes called dual regulation. Once the state rule becomes authorized, Ohio EPA becomes the primary enforcer of the rule, but U.S. EPA always reserves the right to enforce an authorized state rule if it is not satisfied with how the state enforced the rule. For federal rules that apply to you that have yet to become effective in the state, you should carefully read all components of the Federal Register notice for the final rule to understand how and when that rule will be implemented and enforced. Ohio EPA can help you with that.

In the permitting context, authorization might cause you to modify both your state hazardous waste management permit and your federal RCRA permit. When applicable state rule provisions become effective, you should ask for those provisions to be added to your state hazardous waste management permit through the permit modification procedures found in the hazardous waste rules. When the state rule provisions become authorized, you should ask U.S. EPA to have the corresponding federal rule provisions removed from your federal RCRA permit. You can accomplish this by using the federal permit modification procedures, which in this context, are sometimes referred to as early termination procedures. If authorized state rule provisions appear in both your state hazardous waste management permit and your federal RCRA permit, you are still regulated by both U.S. EPA and Ohio EPA, unless you make a

request to U.S. EPA, and U.S. EPA grants your request to eliminate the duplication.

What's going on in authorization now?

In June, Ohio EPA submitted a final authorization application (ARA 5) to U.S. EPA Region 5. ARA 5, when approved, will authorize a portion of Ohio's rules promulgated since 1993, including the rules containing EPA hazardous waste numbers F037, F038, K141-K145, K147, K148, and K156-K161. We expect U.S. EPA Region 5 to act quickly on Ohio's ARA 5 request for authorization, because it uses several pre-review and process streamlining techniques that have been successfully used by other Region 5 states.

What is the next step in authorization of ARA 5?

U.S. EPA Region 5 will consider Ohio's final authorization application. When U.S. EPA and Ohio EPA have worked out any remaining application details, U.S. EPA will publish its authorization decision in the Federal Register. The Federal Register notice will contain the details of providing public comment on their decision, who to contact in U.S. EPA Region 5 for more information, and the effective date of authorization (presuming it is granted). Please see the article titled "Where do all these hazardous waste rules come from?" in this edition of the *"Notifier"* to find out how to access the Federal Register on the Web.

What happens after ARA 5 is authorized?

The Division of Hazardous Waste Management is already working on ARA 6, which we intend to submit in draft form to U.S. EPA Region 5 in

Authorization Update *continued from page 6...*

September. It will request authorization for almost all the provisions of the Ohio hazardous waste management rules that are currently effective, not yet authorized, and not contained in ARA 5. This includes our land disposal restrictions (federal Phases I-IV), universal waste management standards, used oil management standards, and a number of other provisions including EPA hazardous waste numbers F032, F034, F035, and K169-K172.

How do I learn more about authorization?

For more information about anything in this article, contact Kit Arthur by phone at (614) 644-2932 or e-mail at Kit.arthur@epa.state.oh.us

Corrective Action *continued from page 5...*

facility must not be under a federal or state order or permit to perform corrective action. Ohio EPA does not yet know the extent to which U.S. EPA Region 5 will require Ohio EPA to review and approve of investigation and cleanup documents prepared pursuant to the VAP requirements.

Ohio EPA's Division of Hazardous Waste Management (DHWM) is interested in your opinion on these questions: 1.) Should Ohio EPA enter into such an agreement with U.S. EPA Region 5 for RCRA facilities subject to corrective action requirements? and 2.) Would you take advantage of such an opportunity to undertake corrective action via the VAP? If you would like to anonymously register an opinion or find out whether your facility is on the list of facilities subject to RCRA corrective action, please go to www.epa.state.oh.us/dhwm/questions.htm. If you should have any questions, please contact Dave Sholtis at (614) 644-2937.

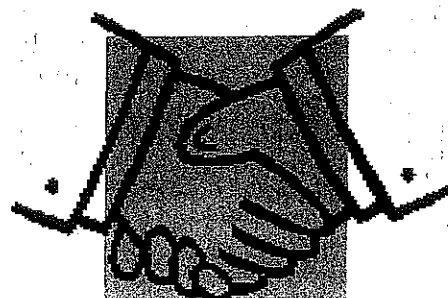
Administering An Effective Compliance Assurance Program

Two important components of the division's compliance assurance program include the use of inspections to make sure companies are applying the hazardous waste rules properly, and a strong enforcement program. A third component is compliance assistance/education outreach. We also believe that timely enforcement provides a deterrent to non-compliance and helps to level the playing field for those who have not allocated the resources necessary to comply with the hazardous waste rules.

During hazardous waste inspections in which violations are noted, many times our inspectors are asked, "Will Ohio EPA be taking an enforcement action against my company?" While not all inspections that reveal violations result in an enforcement action, we do expect companies who are violating the hazardous waste rules to abate the violations as soon as possible. We evaluate the results of each inspection to determine if an escalated enforcement action is warranted. In general, we will take an enforcement action against companies who we determine to be in substantial non-compliance with the hazardous waste law and rules.

Generally, a company would be in substantial non-compliance if its facility:

- has caused actual exposure or the likelihood of exposure to hazardous waste or hazardous waste constituents;
- is a chronic or recalcitrant violator of the hazardous waste rules; or
- deviates substantially from the terms of a permit, order, agreement or from the hazardous waste law or rules.



Examples of substantial non-compliance that resulted in an enforcement action in the past two or three years include:

- Illegal storage of hazardous waste, e.g., greater than 90 days for a large quantity generator;
- Illegal disposal of hazardous waste, e.g., causing hazardous waste to be transported and disposed of at a facility that does not have a permit to manage hazardous waste;
- Chronic violations of the hazardous waste rules, e.g., repeat personnel training, inspection and container management violations over a five-year period; and
- Large quantity generators substantially deviating from the hazardous waste rules, e.g., no personnel training, contingency plan and inspections of its hazardous waste accumulation area(s).

If you are interested in more details about our division's enforcement program, please feel free to contact Harry Sarvis at (614) 644-3519 or e-mail him at: harry.sarvis@epa.state.oh.us

Rule-making Update

D HWM is currently drafting rules to address a number of changes to the federal RCRA rules. This rules package, known as the MegaSet, will contain more than over 360 rules, and will, for the most part, catch up Ohio's RCRA rule-making backlog.

What's in the package?

This rules package addresses 40 Federal Registers with a wide range of RCRA subjects. The larger federal concepts addressed in this package are Boilers and Industrial Furnaces (BIFs), Liners and Leak Detection Systems, Military Munitions, Post-Closure Permitting (the Enforceable Documents rule), HWIR Contaminated Media, Universal Waste Lamps, the NESHAP Combustors rule (MACT 2, or the Fast Track rule), Low Level Mixed Waste, the HWIR Identification rule, and Corrections to the CAMU rule (New CAMU). There are several waste listings addressed in this package as well: Chlorinated Aliphatics (K174, K175), and Inorganic Chemical Manufacturing Wastes (K176, K177, and K178). In addition, this package contains numerous non-substantive rule amendments to update rule cross-references and correct word choice and sentence structure.

There are no state-specific requirements in this rules package. It is intended to make Ohio rules equivalent to the federal rules, and not to make anything more stringent than the federal counterpart rules. A complete list of all the Federal Registers addressed in this rule-making will be provided when the draft rules are posted in draft on the DHWM Web site.

What's not in the package?

The following federal subjects are not addressed in this rule-making: Permit as a Shield; Organic Air Emissions Subparts AA, BB, and CC; and Imports and Exports- Implementation of the Organization for Economic Cooperation and Development Council (OECD) Decision. Compliance with these federal rules is required in Ohio at this time; they are enforced by U.S. EPA.

When can we see these draft rules?

These draft rules are scheduled to be released for interested parties review late this summer. When the draft rules are completed and the director has approved their release, a letter will be sent to everyone on the DHWM rule-making interested parties mailing list. That letter will be posted on the DHWM Web site, as will the draft rules.

How do we get these draft rules?

Recipients of the interested parties letter will not automatically receive a copy of the rules, but the letter will indicate how to get the rules from the DHWM Web site, and how to get a paper copy if necessary. When the interested parties letter is sent, the draft rules will be posted on the DHWM Web site in the "Laws and Regulations" section under an icon called "Draft MegaSet Rules." You will be able to download the rules as a PDF or a series of files, from the Web site. We will also have a limited number of paper copies available.

How do we find what we're looking for when we have the rules?

The interested parties letter will contain a detailed list of what Ohio rules are changed to address which federal subjects, so if you're tracking a particular federal subject, you can use that list to determine which Ohio rules to look at. (When you download the draft rules files, a file containing the interested parties letter with this information will be included.) In addition, each rule will contain a page providing very detailed information about the location, nature, and reason for the amendments in that rule. And you can always call us and ask for help - we'll walk you through the package and help you find whatever you're looking for.

When and how do we provide comments on the draft rules?

The interested parties comment period will be open for 60 days; the comment period closing date will be identified in the letter. You may send your comments by mail, e-mail, or fax, to Kit Arthur (see specifics below). Please feel free to call with questions as you're looking through the draft rules and developing your comments.

What's the rule-making process after interested parties comment on the drafts?

After the interested parties comment period on the draft rules, we will consider the comments received, and change the rules as appropriate.

Then after the director approves them, the rules will be proposed. Rule proposal, also called original filing, puts the rules into another public comment period that includes a public hearing at Ohio EPA, and a public hearing held by the Joint Committee on Agency Rule Review. After public comments have been collected and considered, and the proposed rules have been changed as appropriate, the rules again will be provided to the director for review and approval by signature. Then the rules are adopted. The effective date will probably be about 90 days after adoption.

Please note that the interested parties letter goes out to our mailing list only once in the rule-making process, at the beginning when the rules are draft. We will put the rule-making public notices and the rules themselves on our Web site again (at proposal and again at adoption), but we will not automatically mail interested parties another letter about the rules later in the rule-making process or upon its completion. You may call us any time to find out the status of the rules package.

When will we need to comply with these state rules?


The effective date for the rules is targeted for autumn 2003. Compliance with state rules is required on the effective date of the state rule. (However, most of the requirements that will be new to the Ohio rules in this package are already effective on the federal level because they were adopted under the Hazardous and Solid Waste Amendments to RCRA, so compliance with the federal counterparts rules is required already.) Updates to the target dates regarding this rules package will be provided in future editions of the Notifier.

How do we get on the interested parties mailing list, or get more information about these rules?

For more information on anything in this article, or to add or update your information on the DHWM rule-making interested parties mail-

ing list, contact Kit Arthur in DHWM's Regulatory Services Unit by at phone (614) 644-2932, e-mail kit.arthur@epa.state.oh.us, or fax (614) 728-1245. Please include your phone number in all correspondence.

We're Here to Help

 The salesman offered you a recycling service that makes the hazardous waste you are sending for treatment exempt from the hazardous waste rules. Are you wondering if what the salesman is telling you is correct? We're here to help you with the answer.

The retailers in your strip mall heard that burned out fluorescent lamps are hazardous because they contain mercury and want to know how to properly handle them. You don't know anything about fluorescent lamps and wonder if there is anyone who can come to your monthly lunch meeting and give your retailers association the low-down on the subject. We're here to help you by providing a presentation on that very subject.

If you subscribe to the old adage that you should never believe anyone who tells you that "the check is in the mail" or that "they're from the government and they're here to help" you probably don't believe what I've written so far. We can't help you with the check or the mail, but we want to prove that, even though we're from the government, we *are* here to help you.

We are the Regulatory Services Unit within the Regulatory and

Information Services (RIS) Section in the Division of Hazardous Waste Management. You might remember us as the Technical Support Unit. There are seven of us in RIS and we are ready at our phones and computers to answer your phone calls and e-mails about Ohio's hazardous waste regulations.

We will answer your questions about the promulgation and application of Ohio's hazardous waste regulations. We can tell you how to determine if your waste is exempt from regulation. We can show you the regulations that are applicable to the management of your waste. We can do presentations for interested groups concerning the proper management of their hazardous waste and how they can comply with the hazardous waste regulations. We also develop guidance and fact sheets about subjects that are the source of frequent questions. If we can't answer your question, chances are we know who can and will provide you with the proper contacts.

If you need our help with any of these services, please give us a call at (614) 644-2917 or e-mail us at jeff.mayhugh@epa.state.oh.us. Remember, we are here to help.

Notifier

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DHWM Adopts New Notification Form

Beginning November 12, 2002, DHWM will be using a new Ohio EPA notification form that replaces EPA Form 8700-12, the federal "Notification of Regulated Waste Activity." The official title of the new form is "RCRA Subtitle C Site Identification," otherwise referred to as the Site ID Form.

The reason DHWM is no longer using the federal form is that U.S. EPA redesigned its form and dropped some fields that are required for Ohio EPA's agency database, which contains information on all the sites that we regulate. Adoption of the Site ID Form for notification coincides with U.S. EPA's version 2 release of RCRA Info, the national database that tracks RCRA information. Because of the overlap between EPA 8700-12, the Part A, and the Identification and Certification (IC) Form in the Hazardous Waste Report, U.S. EPA combined the common elements into the Site ID Form to reduce the burden and to obtain more frequent updates from the sites we regulate.

Some of you may be familiar with the Site ID Form because it replaced the IC Form in the 2001 Annual Report. Sites that wish to update the information associated with an EPA ID can do this using the Site ID Form as part of the annual report submission or as a stand-alone form at any time the information changes. You do not have to obtain a separate notification booklet because of the multi-purpose nature of the Site ID Form.

The new Site ID Form and notification instructions are available on DHWM's Web page at <http://www.epa.state.oh.us/dhwm/notiform.html>. Please contact Tammy McConnell by phone at (614) 644-2922 or e-mail tammy.mcconnell@epa.state.oh.us if you have any questions.



PPC 9441.1984(36)

**GASES VENTED FROM COMPRESSED GAS CYLINDERS - TREATING OF
FLUORINE AND OTHERS**

DEC 17 1984

MEMORANDUM

**SUBJECT: RCRA Implications of Treating Gases
Vented From Compressed Cylinders**

**FROM: John Skinner, Director
Office of Solid Waste (WH-562B)**

**TO: James H. Scarbrough, Chief
Residuals Management Branch
Region IV**

This is in response to your November 28, 1984, memorandum regarding a facility built to treat fluorine (PO56) and other gases vented from compressed gas cylinders. You are correct in your application of the response to the letter to the Compressed Gas Association from Christopher Capper, dated November 6, 1981.

According to that letter, customers return cylinders to gas suppliers for refilling, not for disposal, and no waste is involved. If the gas supplier decides to discard the contents of the returned cylinders, any liquid or physically solid waste removed from the cylinders are subject to RCRA if they are hazardous waste. Cylinders containing regulated quantities of hazardous waste would need to be manifested to off-site facilities for treatment, storage, or disposal. However, the letter goes on to say that the handling of gaseous residues removed from the cylinders and neutralization or scrubbing of gases prior to release are not subject to RCRA regulation. Any liquid or physically solid wastes derived from the treatment of hazardous compressed gas is still subject to RCRA regulations, if it is derived from listed waste or if the residual is hazardous under Part 261 Subpart C (characteristics).

Therefore, your conclusions are correct. The facility is not

a RCRA treatment facility for any handling of the gases removed from the cylinders. Any liquid or solid residues derived from the cylinders or from treatment of cylinder contents that are listed in 40 CFR 261 Subpart D or are hazardous under Part 261 Subpart C are subject to Subtitle C hazardous waste regulations. If you have any further questions, please do not hesitate to contact Alan Corson or Irene Horner, of my staff, at 382-4770.

cc: Hazardous Waste Branch Chiefs, Regions I-III and V-X



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

ON 6 1981

Lawrence W. Bierlein, Esq.
Compressed Gas Association
910 Seventeenth Street, N.W.
Washington, D.C. 20006

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

Dear Mr. Bierlein:

This is in response to your inquiry on the Resource Conservation and Recovery Act (RCRA) requirements to handle residues removed from compressed gas cylinders.

We understand that cylinders (defined generally under Department of Transportation regulations, 49 CFR 171.8, as pressure vessels having a water capacity not exceeding 1000 pounds and constructed in accordance with DOT requirements) are typically returned to gas suppliers containing gaseous residues. We further understand that these returned cylinders often are "topped off" without discard of the residues, and with reclamation of the residues by the gas supplier. In these situations, the residues are not solid wastes under §261.2, and thus, do not entail consideration of compliance with the hazardous waste regulations. (See letter from John P. Lehman to you dated November 3, 1980.)

If the gas supplier, however, decides to discard cylinders containing gaseous, liquid, or physically solid residues (i.e., non-empty containers) that meet the definitions in 40 CFR Part 261, the residues in the cylinders become hazardous wastes because they are being discarded, and these residues (and the cylinders) must be handled in compliance with the regulations. Any shipment of these contained gaseous or other wastes off-site must be in compliance with all generator and transporter requirements under 40 CFR Parts 262 and 263. Additionally, any such gas cylinders which are discarded or intended to be discarded must be managed in accordance with the requirements under 40 CFR Parts 264 to 267. Furthermore, any liquid or physically solid wastes removed from the cylinders or derived from the treatment of the contained gases, such as scrubber residues or waste neutralizing solutions, that are hazardous must be managed in accordance with the Subtitle C waste regulations.

The primary question raised by the Compressed Gas Association relates to the handling of gaseous residues removed from cylinders and neutralized, scrubbed, flared, or vented to the atmosphere, and specifically whether this activity constitutes the management of hazardous waste under the RCRA regulations. EPA does not construe the present regulations as applying to these practices. EPA has prioritized its regulatory efforts regarding hazardous wastes, and concluded that the flaring and venting of hazardous compressed gases or gases that are neutralized or scrubbed prior to their release to the environment does not demand immediate regulatory attention under the hazardous waste regulations. Accordingly, it is the position of the Agency that any gas cylinder handling facility is not subject presently to regulations promulgated under the Resource Conservation and Recovery Act, in the handling, neutralization, scrubbing, flaring or venting of gaseous residues removed from compressed gas cylinders.

The Compressed Gas Association has contended that the Agency lacks jurisdiction under RCRA to regulate the neutralization, scrubbing, flaring or venting of gases removed from cylinders, based on the definition of "solid waste" in section 1004 of RCRA and the legislative history of the statute. In light of the Agency's determination expressed in this letter, that such activities are not covered by today's RCRA regulations, we see no need to resolve the jurisdictional issue at this time. The Compressed Gas Association possesses the right to petition the Court of Appeals for review if and when the Agency asserts jurisdiction under RCRA over these activities in the future.

Sincerely yours,



Christopher J. Copper
Acting Assistant Administrator
for Solid Waste and Emergency Response



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FEB 13 2007

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

Mr. Donald J. Patterson, Jr.
Beveridge & Diamond
1350 I Street, N.W.
Suite 700
Washington, D.C. 20005-3311

Dear Mr. Patterson:

Thank you for your letter of February 3, 2006, and for coming in with representatives of Matheson Tri-Gas, Inc. (Matheson) on March 21, 2006 to discuss the regulatory status under the Resource Conservation and Recovery Act (RCRA) of Safe Delivery System (SDS) gas cylinders.

As I understand Matheson's operations, Matheson fills SDS gas cylinders with extremely high purity gases, such as arsine and phosphine, and delivers the filled cylinders to its customers. The customers use the gases in semi-conductor manufacturing. The SDS cylinders are not like traditional compressed gas cylinders where the gases are stored under positive pressure. Instead, the SDS cylinders contain a carbon-based medium which operates as a "molecular sieve" in which the gas is adsorbed and trapped within the interstitial spaces.¹ As a result, the gas is stored under sub-atmospheric pressure, which avoids safety concerns with high-pressure containment and also allows a greater volume of gas to be stored in the container.

After customers use the gases from the cylinders, they are returned to Matheson where they are inspected, refilled, and sent back to customers. When the cylinders are returned to Matheson, they often still contain between 30% and 50% of the original volume of gas because it is difficult to remove all of the gas from the medium. From the information provided, you state that about 90% of the cylinders (after inspection and refilling, and some percentage requiring minor repairs) are returned to the customers. However, you also state that approximately 10% of the SDS gas cylinders cannot be refilled or require more than minor repair (due to gas contamination, major valve damage, or obsolescence of the cylinders) and therefore have been sent to Integrated Environmental Services (IES) in Atlanta, Georgia. You explain that IES will extract any unused gases, and then reclaim the gas using purification steps to remove contaminants.

¹ See your letter to Matt Hale, February 3, 2006, page 4.

In both your letter and when meeting with me and my staff, you expressed concern with a position taken earlier by Environmental Protection Agency's Region 1 that indicated that SDS cylinders would be subject to RCRA jurisdiction under certain circumstances. In particular, the letters dated August 11, 2003 and September 25, 2003 stated that SDS cylinders sent to an off-site facility for thermal reclamation are spent materials subject to RCRA jurisdiction if the gas contained in the unit is a RCRA hazardous waste because the units have become contaminated/depleted and as a result of this contamination/depletion they no longer can be used without reclamation.² Conversely, you believe the cylinders are not subject to RCRA jurisdiction because they are containers holding unused commercial chemical products (CCPs) that are reclaimed.³

After your inquiry, we worked together with both Regions 1 and 4 to discuss this issue more fully and have come to the following conclusion. EPA agrees that the storage and delivery cylinders as you describe them are containers holding unused CCPs, rather than spent materials, and therefore are not subject to regulation under 40 CFR 261.2(c)(3) as spent materials.

The questions that you raise point out the need for EPA to clarify when an engineered unit should be classified as a container holding an unused CCP or spent material. In the past, we have determined that some units of concern, such as mercury switches or ignitron tubes were spent materials when they had become contaminated or when they had outlived their usefulness and no longer could be used.⁴ In other situations, we have determined that the units were containers holding an unused CCP. Examples include pressurized gas cylinders and "bubblers."⁵

There is an important distinction between these two situations. With respect to ignitron tubes and mercury switches, the chemical of concern (e.g., mercury) plays an integral role in the functioning of the unit, while the chemical is inside of the unit and the item's main purpose is to provide some function other than storage and delivery of the chemical. The mercury has no function outside of these units. Conversely, with the SDS cylinders and pressurized gas canisters, the principal purpose of the unit is to store and dispense the chemical, and the main purpose or function for which the chemical (e.g., phosphine or arsine) is used occurs outside of the unit. We consider these SDS canisters to be chemical storage and delivery units, whereas the mercury inside of the mercury switch and ignitron tube is integral to the proper functioning of the unit. In other words, the SDS cylinders are storage devices holding a CCP. Conversely, with the mercury switches, once the unit is no longer functioning, the chemical remaining inside of the unit has been used as part of the functioning of the item itself.

² See 40 CFR 261.1(c)(1) and 40 CFR 261.2(c)(3).

³ See 40 CFR 261.33 and 40 CFR 261.2(c)(3).

⁴ See letters from Bussard to Green, Sept. 28, 1994 (RCRA On-Line (RO) Document Number 11876), and Cochran to Oleszko, April 14, 1989 (RO 11419), respectively.

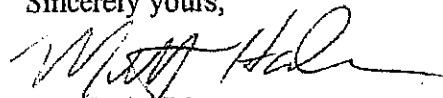
⁵ See letters from John Lehman, Director, Hazardous and Industrial Waste Division, EPA Office of Solid Waste to Lawrence W. Bierlein, Esq., Compressed Gas Association, November 3, 1980, and Christopher J. Capper, Acting Assistant Administrator, EPA Office of Solid Waste and Emergency Response to Lawrence W. Bierlein, Esq., Compressed Gas Association, November 6, 1981. Also see letters from Bussard to Morishita, Sept 14, 1994 (RO 11871) and Dec 16, 1994 (RO 13722), respectively.

Two further points are worth noting. First, be aware that containers that held unused CCPs and any residues generated from CCP recovery must undergo a new hazardous waste determination after the cylinders are emptied.⁶ Second, in general, those managing unused CCPs that require reclamation should be aware of the potential for these types of materials to be abandoned. Abandoned CCPs are solid wastes (see 40 CFR 261.2(i)), and if hazardous, hazardous wastes. For example, if unused CCPs were being stored for a long period of time without any foreseeable means of recovering the product, or if no foreseeable market existed for the recovered product, an overseeing regulatory agency might well conclude that they were abandoned, and thus subject to Subtitle C hazardous waste regulations. Determinations as to whether a CCP is abandoned are site-specific and are made by the Regions and states implementing the RCRA program.

Finally, please be aware that this interpretation is based on the federal RCRA hazardous waste regulations. EPA authorizes states to implement the RCRA hazardous waste program. States promulgate their own hazardous waste regulations and an authorized state's regulations are applicable within the state in lieu of the federal regulations. A state's regulations may be more stringent and/or broader in scope than the federal regulations. Thus, you should check with the appropriate state agency or, if the state is not authorized, the EPA regional office to determine the requirements applicable to any specific activities.

If you have any questions, please contact Jim O'Leary of my staff at (703) 308-8827 or oleary.jim@epa.gov.

Sincerely yours,



Matt Hale, Director
Office of Solid Waste

⁶ See, for example, 40 CFR 261.33 and 40 CFR 261.7(b)(3).



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 3 1980

OFFICE OF WATER
RECEIVED WASTE MANAGEMENT

NOV 6 1980

LAW DEPARTMENT

Laurence W. Bierlein, Esq.
Compressed Gas Association
Suite 701
910 Seventeenth St., N.W.
Washington, D.C. 20006

Dear Mr. Bierlein:

This is in response to your inquiry regarding applicability of the Resource Conservation and Recovery Act, and hazardous waste management regulations issued thereunder, to the practice in the compressed gas industry of repetitive transportation of cylinders by gas manufacturers and their customers.

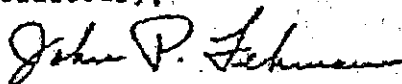
As described to us during your meeting here on October 15, all cylinders are owned by or are under the equivalent control of the gas supplier. When the customer has completed his use of the gas, the cylinder is returned to the supplier. As a matter of safety, there is residual pressure in the cylinder when it is returned. (The return transportation is extensively regulated by the Department of Transportation under the federal Hazardous Materials Regulations, 49 CFR 170-189.) The customer's purpose in making the shipment is to return the supplier's property, not to discard the remaining contents. The customer does not make the decision on the final disposition of the residue in the cylinder; this is the exclusive prerogative of the gas supplier. Further, the decision whether or not to discard the contents of the container is not made until the container is returned to the supplier.

Under these circumstances, the customer is not generating a waste by merely returning the cylinder and, neither the returned container nor the contained residue is a "solid waste" as that term is defined in the Resource Conservation and Recovery Act and Part 261 of the EPA regulations of May 19, 1980. Under 261.3(b)(1), a material must be "discarded" before it can be a solid waste. The description you have provided indicates that residual gases are not discarded until the cylinders are returned to the supplier, that no decision is made to discard

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the residual gases until the cylinders are returned, and that the customer plays no part in this decision. Therefore, the material is not discarded until the cylinder reaches the supplier and a decision is made whether to discard the residual gas. Consequently, the customer's return of the supplier's cylinders that may hold some residue is not the shipment of a solid (or hazardous) waste. Simply returning such cylinders does not make the customer a generator, and the shipment need not be manifested to an EPA-permitted facility or be carried by a hazardous waste transporter.

Sincerely,



John P. Lehman, Director
Hazardous and Industrial Waste Division
Office of Solid Waste (WH-565)

October 3, 2000

Richard L. Schultz

Cylinder Processors Incorporated

1223 Budd Street

Cincinnati, Ohio 45203

Dear Mr. Schultz:

Please accept my apologies for the amount of time it has taken to reply to your July 5, 2000, letter requesting clarification as to the proper management of scrap acetylene cylinders, as well as, Ohio EPA's hazardous waste determination for acetone contained in the cylinders generated at or shipped to Cylinder Processors Incorporated (CPI). Based on the information provided in your letter and in our subsequent meeting, telephone conversations and e-mail, Ohio EPA has made the following determinations. Ohio EPA has determined that the acetone in acetylene cylinders that cannot be returned to service is a spent solvent. Our determination is based on two definitions; the definition of a spent material in Ohio Administrative Code (OAC) Rule 3745-51-01(C), and the definition of a solvent from the December 31, 1985, Federal Register. OAC Rule 3745-51-01(C) defines a spent material as any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing. The December 31, 1985, Federal Register (50 FR 53316) defines solvent as "a solvent that is used for its solvent properties; to solubilize (dissolve) or mobilize other constituents." Therefore, acetone remaining in cylinders is considered a spent solvent (an F003 listed hazardous waste), and before CPI can dispose of acetylene cylinders, acetone must be removed in accordance with OAC Rule 3745-51-07.

Residues of hazardous wastes in RCRA empty containers (cylinders) are discussed in OAC Rule 3745-51-07. Section (A)(1) of that rule says: "a container or inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified as an acute hazardous waste..., is empty if: (a) all wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping, and aspirating; and (b) no more than 2.5 centimeters (one inch) of residue remain on the bottom of the container or inner liner...(2) (in part) A container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric." If more than 2.5 centimeters residue remain in the container, then it must be removed to at least 2.5 centimeters prior to disposal. However, the Agency has determined that acetylene cylinders containing acetone is a unique situation that doesn't fit the traditional definition of "RCRA empty." We, therefore, have determined that acetylene cylinders containing

Richard L. Schultz

Cylinder Processors Incorporated

October 3, 2000

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acetone will not be considered empty until acetone has been removed according to OAC Rule 3745-51-07(B)(1)(a),(b), and (c).

At our meeting on August 8, 2000, with Harold O'Connell, SWDO, you demonstrated CPI's acetylene cylinder testing and acetone extraction process. Based on those discussions,

we understand that CPI receives acetylene cylinders under the following two circumstances:

- Acetylene cylinder distributors send their non-waste cylinders to CPI to be tested using the DOT compressed gas association CGAC-13 test for cylinder integrity.

- Companies send their waste acetylene cylinders to CPI for waste management.

When CPI receives the non-waste cylinders from acetylene cylinder distributors, the cylinders undergo the DOT compressed gas association CGAC-13 test for cylinder integrity. The results of the test determines the fate of the acetylene cylinder. If the cylinder passes the DOT test, it is not a waste cylinder. If the cylinder fails the DOT test, this is the point that the cylinder is determined to be a waste and a hazardous waste.

CPI estimated that 80% to 90% of the cylinders sent to them for testing pass the integrity tests. Passing cylinders are given a fresh coat of paint, marked to designate a positive test result and returned to the acetylene company for refilling, with paperwork that makes the cylinders good for another ten years.

10% to 20% of the cylinders fail the DOT test. These cylinders are then set aside in an area where they await acetone extraction. The cylinders are moved five at a time to a contained area where they are connected to a vacuum. Spent acetone is extracted from the five cylinders into one drum. Once the cylinders are empty of acetone, they are disconnected from the vacuum and set aside for disposal. The next five cylinders are connected to the vacuum and pumped into the same drum, until the drum reaches its maximum volume. The drum is then set aside to await distillation. Depending on the size of the cylinder, it can take up to 48 hours to extract the entire amount of acetone.

The waste acetylene cylinders sent to CPI under the second circumstance are unuseable and destined for disposal. CPI is aware at the point of delivery and acceptance, that the second type of cylinders will not undergo the DOT testing, and that they will only be accepted for the intended purpose of acetone reclamation.

Richard L. Schultz
Cylinder Processors Incorporated
October 3, 2000

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Under Ohio Revised Code (ORC) § 3734.02 (F), CPI is prohibited from receiving and storing waste acetylene cylinders and from storing extracted acetone (F003 hazardous waste) without a hazardous waste installation and operation permit.

The Division of Hazardous Waste Management (DHWM) recognizes that CPI may have relied on the exclusion in OAC Rule 3745-51-07 for compressed gas. We also recognize that this interpretation may cause CPI substantial harm unless it can delay compliance with this interpretation until such time as it can reasonably address such business matters. The Agency is willing to work with CPI to minimize the impact of this interpretation.

Therefore, CPI must give us a written compliance schedule that describes what CPI will do to comply with ORC § 3734.02 (F). This schedule should include the following information:

Whether CPI has existing contracts for handling unwanted, waste acetylene cylinders that are shipped to them for acetone management/reclamation that it must fulfill (if so, please provide specific details regarding quantities and when the contract(s) will expire or terminate);

The date when CPI expects to return to compliance with ORC § 3734.02(F);

If CPI's plan for returning to compliance includes doing any or a combination of the following actions, they should include the date they will do them: (1) submit an application for a hazardous waste installation and operation permit for receipt and storage of waste cylinders; (2) stop receiving unwanted, hazardous acetylene cylinders that are shipped to them for acetone management/reclamation; and/or (3) discontinue storing acetone for more than 90 days that was removed from DOT tested acetylene cylinders; and

Any other steps CPI has taken or will take to return to compliance, and any explanation or justification for the delay.

Please submit CPI's schedule for achieving compliance within 30 days of receiving this letter. We will determine our next steps based on CPI's response.

You also indicated that CPI may want to begin on-site distillation of the spent acetone extracted from cylinders. I have attached two Fact Sheets from Ohio EPA's Office of Pollution Prevention regarding On-Site Solvent Recycling Equipment and Legal Considerations for On-Site Solvent Recycling. Please note that the Office of Pollution Prevention's Fact Sheet #15 is somewhat outdated, so be sure to check on all of the legal

Richard L. Schultz
Cylinder Processors Incorporated
October 3, 2000
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points that might affect you. Should you decide to distill on-site, you must know how the spent acetone will be used by the receiving facility. This knowledge will enable you to determine how you must handle the recycled material (spent acetone). There are two different scenarios for handling recycled materials from your on-site recycling.

In the first scenario, the generator recycles the material on-site then ships the recycled material off-site to a facility that uses the material as is, without further reclamation. According to OAC Rule 3745-51-02 (E)(1)(a) Materials are not wastes when they can be shown to be recycled by being used or reused as ingredients in an industrial process to make a product, provided the materials are not being reclaimed. These generators, according to OAC Rule 3745-51-06 (B), are subject to the applicable requirements of Chapters 3745-52 and 3745-53 of the Administrative Code, and the notification requirements under section 3010 of RCRA. Please note that the recycling process itself is exempt from regulation.

In the second scenario, the generator recycles the material on-site, but then ships the

recycled material off-site to a facility that further reclaims the material before use. According to OAC Rule 3745-51-02 (E) a material is a waste if it is being reclaimed. Therefore, since the recycled material undergoes further reclamation at the receiving facility, it must be handled as a waste material in accordance with OAC Chapter 3745-52. On an additional note, according to OAC Rule 3745-51-06(2)(b) if recycled, scrap metal is not subject to regulation under OAC Rules 3745-58-40 to 3745-58-62 or Chapters 3745-52, 3745-53, 3745-54 to 3745-57, 3745-58, 3745-59, and 3745-65 to 3745-69 and is not subject to the notification requirements of Chapter 3734 of the Revised Code. You indicated in your letter that you are disposing of your scrap metal cylinders at a permitted landfill as asbestos containing waste. Although this is considered proper management, Ohio EPA strongly encourages the recycling of scrap metal; however, we understand that you may have difficulties locating a facility that accepts this material. You may want to contact Ohio's Material Exchange (OMEx) at <http://www.epa.state.oh.us/opp/recyc/category.html> or (888)718-6639. I have attached a portion of OMEx's website which explains what OMEx is and what it could do for CPI. You could also contact other waste exchanges through Ohio EPA's Office of Pollution Prevention at: <http://www.epa.state.oh.us/opp/recyc/omexother.html>. Again, please submit CPI's schedule for achieving compliance within thirty days of receiving this letter. We hope this has been of help to you. If you have additional questions regarding scrap metal recycling or solvent recycling please feel free to contact me at (614)644-2667 or Harold O'Connell at the Southwest District Office (937)285-6078.

Richard L. Schultz
Cylinder Processors Incorporated
October 3, 2000
Page 5 of 6
Sincerely,
Rose Connelly
Technical Support Unit
Division of Hazardous Waste Management
wp8.RC.lcn.g:cpiresponse
cc:

Jeff Mayhugh, Supervisor, CAS, DHWM
Harold O'Connell, SWDO, DHWM
Pamela S. Allen, Manager, CAS, DHWM
Todd Anderson, Legal
Linda Neumann, CAS, DHWM
DHWM DO Supervisors

Attachments:

Ohio Material Exchange web pages. (5 pages) [Www.epa.state.oh.us/opp/recyc/omex.html](http://www.epa.state.oh.us/opp/recyc/omex.html)
Office of Pollution Prevention Fact Sheet No. 9: On-Site Solvent
Recycling Equipment. January 1993.
Office of Pollution Prevention Fact Sheet No.15: Legal
Considerations for On-Site Solvent Recycling. May 1993.
Division Of Hazardous Waste Management's list of Gas Cylinder

Recycling Services. March 1998.

References:

Ohio Administrative Code (OAC)

50 FR 53316. December 31, 1985 Federal Register.

[Http://www.epa.state.oh.us/opp/recyc/category.html](http://www.epa.state.oh.us/opp/recyc/category.html)

[Http://www.epa.state.oh.us/opp/recyc/omexother.html](http://www.epa.state.oh.us/opp/recyc/omexother.html)

10/89 Letter from RCRA/Superfund Hotline Summary, 9441.1989(55)

July 5, 2000

OEPA

PO Box 1049

Columbus, OH 43216-1049

Dear Mr. Mayhugh:

Per our telephone discussion earlier today, I am providing you with our question about disposal of scrap acetylene cylinders as originally posed to Elizabeth Fryer of the Hamilton County Department of Environmental Services on 06-21-00, and presented to you as the following "cut and paste" paragraph.

Richard L. Schultz

Cylinder Processors Incorporated

October 3, 2000

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Given that an acetylene cylinder is a DOT regulated container (8A or 8AL) that is comprised of a steel shell that is completely filled with a porous mass (similar to plaster or paris, that may contain some asbestos) that is saturated with acetone (or a similar material) into which acetylene is dissolved (like the carbon dioxide in a carbonated beverage), what would you agency deem to be proper disposal for cylinders that are no longer fit for service (scrap)?

It is our belief that, even though release of any residual acetylene to atmospheric pressure would remove that hazardous waste component from the equation, any residual acetone would remain a hazardous waste until as least 97% of it has been removed from the cylinder.

For what it is worth, we have developed a process that removes 99+% of the residual acetone, which we then ship to a permitted reclamation or disposal facility. The resultant "empty" shells are then disposed of at a permitted landfill as asbestos containing waste.

Your interpretation of the applicable regulations is greatly appreciated. If you have any questions, please contact me.

Sincerely,

Richard Schultz

June 1, 2001

Mr. Carl Johnson, President
Compressed Gas Association, Inc.
1725 Jefferson Davis Highway Suite 1004
Arlington, Virginia 22202-4102

Re: Acetylene Cylinders

Dear Mr. Johnson:

Please accept my apologies for not replying sooner to your March 13, 2001, letter concerning scrap acetylene cylinders. I am writing this letter to further clarify Ohio EPA's position concerning scrap cylinders and to invite you to discuss the issue with us in person or over the phone.

I would like to clarify that we do not consider cylinders that are being shipped to be tested for DOT standards or which are intended to be refilled to contain a hazardous waste. This position is based on the fact that the acetone contained in them has a high potential to, or will continue to be, used for its original intended purpose.

I will refer to acetylene cylinders that are deemed to be unfit for further use to dispense and carry acetylene as scrap acetylene cylinder in the rest of this letter. Our understanding is that scrap acetylene cylinders are typically discarded by being disposed of in solid waste or industrial waste landfills. There is a significant amount of solvent remaining in the cylinder (e.g., Model 420 contains approximately 8 gallons of acetone). We believe that this acetone may be released from the cylinder when it is disposed. Such a release may cause a threat to human health and the environment. We also believe that there is a significant potential for harm to anyone who improperly manages scrap acetylene cylinders that before they have been properly disposed.

We believe that the acetone can be recovered from the cylinder and can be put to useful purposes. We are aware of two companies that will provide acetone recovery services. In addition, there is a considerable amount of steel in the cylinder that can be recycled. We believe that the recovery of acetone and recycling of steel cylinders will conserve valuable resources.

The following is an explanation of our position concerning the points that you raised in your March 13, 2001 letter.

Mr. Carl Johnson
Compressed Gas Association, Inc.
June 1, 2001
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Scrap cylinders are not empty containers as defined under Ohio Administrative Code (OAC) Rule 3745-51-07(B)(2) for containers that have held hazardous waste that is a compressed gas.

The rule specifically states that a container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric pressure. We agree that this rule applies to cylinders that contain only a hazardous compressed gas; however, we believe that acetylene is a *dissolved gas* not a compressed gas. In addition to the acetylene gas, the cylinder contains a considerable amount of acetone which remains when the acetylene is completely dispensed. We do not consider acetylene cylinders to be empty when they are at atmospheric pressure because they still contain significant amounts of acetone. If these cylinders are improperly managed, they may pose a threat to human health or the environment.

The acetone remaining in scrap cylinders is spent solvent and is F003 hazardous waste.

In a March 24, 1994 memorandum [OSWER 9441.1994(07)] to U.S. EPA regional hazardous waste management division directors, Michael Shapiro, Director of U. S. EPA's office of solid waste clarified the definition of "spent material". In that memo Mr. Shapiro explains that "the fact that a material can continue to be used for its original purpose is not relevant to the issue of whether or not it is a spent material". What matters is whether the solvent will actually continue to be used as a solvent. Since the acetone will be discarded by being disposed with the cylinder, we would consider the acetone to be a spent solvent.

The acetone is used in acetylene cylinders as a diluent or carrier for the acetylene gas. The acetylene is dissolved into the acetone. Such use is considered by Ohio EPA and U. S. EPA to be solvent use [OSWER 9441.1988(40)]. When a cylinder is intended to be disposed or scrapped the acetone is a spent solvent identified as hazardous waste number F003.

Scrap acetylene cylinders themselves are not hazardous waste as they do not exhibit characteristics of hazardous waste; however, the cylinders still contain significant amounts of highly ignitable acetone that may pose a threat to human health or the environment if they are mismanaged.

We consider acetylene cylinders to be containers. The acetone is placed into the cylinder

Mr. Carl Johnson
Compressed Gas Association, Inc.
June 1, 2001
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by absorbing it into the filler matrix. We do not consider the acetone or the matrix material to be waste (solid waste) at the time the cylinder is manufactured because they are not being discarded. Since the acetone is not mixed with a solid waste, the mixture rule [OAC rule 3745-51-03(A)(2)(c)] does not apply in this situation. The acetone is contained in the cylinder and we believe that there are reasonable ways to recover the acetone for further use.

There has been no evidence presented during our discussions with CGA or CPI that show that the cylinders remain intact and that the acetone will remain in the cylinder after disposal into a solid waste landfill. In addition, there is considerable likelihood for the cylinders to be mismanaged by not being properly disposed. The potential exists for someone unknowingly manipulating a scrap cylinder in such a way as to cause serious injury to themselves and others if they are not aware that the cylinder contains acetone, a highly flammable substance.

Again we would like to meet with you to discuss ways that we can provide information to your members on the proper handling of scrap acetylene cylinders. We are prepared to meet with you in person or by conference phone at your earliest convenience. Please feel free to contact me at (614) 644-2950.

Sincerely,

Jeff Mayhugh, Environmental Supervisor
Technical Support Unit
Division of Hazardous Waste Management

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CC:

Pamela S. Allen, Manager, IT&TSS, DHWM
Todd Anderson, Legal
Al Franks, Directors Office
Rose Connelly, TSU
Harold O'Connell, SWDO, DHWM
March 13, 2001
Ohio EPA

Mr. Carl Johnson
Compressed Gas Association, Inc.

June 1, 2001

Page 4

122 S Front St

Columbus, OH 43215

RE: Acetylene Cylinders

Dear Mr. Mayhugh,

The Compressed Gas Association (CGA) founded in 1913, represents approximately one hundred and fifty member companies world wide in the development and promotion of safety standards and safe practices in the industrial gas industry. The Association represents all facets of the industry-manufacturers, distributors, suppliers and transporters. Through the committee system CGA creates technical specifications, safety standards, training and educational materials; and also works with government agencies to formulate responsible regulations and standards and to promote compliance with these regulations. CGA members produce, market and distribute industrial gases and cryogenic liquids such as carbon dioxide, ethylene, hydrogen, nitrogen, nitrous oxide and oxygen as well as various specialty gases, including acetylene, many classified as poison gases. Accordingly our members have a strong interest in domestic and international regulations governing these products.

In correspondence dated 3 October 2000 addressed to Cylinder Processors Incorporated, Ohio EPA discusses several issues of concern to the CGA. The agency has taken the position that acetone remaining in out-of-service acetylene cylinders is considered a spent material and a spent solvent, in particular, an F003 listed hazardous waste. OEPA further states that acetone must be removed in accordance with OAC Rule 3745-51-07 before acetylene cylinders can be disposed. CGA disagrees with these interpretations of the Ohio regulations. CGA believes that out-of-service acetylene cylinders are not hazardous waste for the following reasons:

1)

Out-of-service acetylene cylinders are empty containers as defined under OAC rule 3745-51-07(B)(2) when properly processed to remove all acetylene gas and when open to the atmosphere by removing the valve or otherwise allowing the pressure in the cylinder to approach atmospheric.

2)

The acetone remaining in out-of-service cylinders is not spent

3)

The acetone remaining in out-of-service cylinders is not a "solvent used for its solvent properties"

4)

Out-of-service acetylene cylinders, when properly processed to remove all acetylene gas and when open to the atmosphere by removing the valve or otherwise allowing the pressure in the cylinder to approach atmospheric, do not exhibit the hazardous waste characteristic of ignitability

Mr. Carl Johnson
Compressed Gas Association, Inc.
June 1, 2001
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Out-of-service acetylene cylinders are empty containers as defined under OAC rule 3745-51-07(B)(2) for containers that have held a hazardous waste that is a compressed gas.

Acetylene gas compressed at pressures above 15 psig can become unstable and dissociate (decompose) into its constituent elements, carbon and hydrogen.

Considerable amounts of heat are generated during decomposition, which may produce an explosion. To prevent the possibility of decomposition of acetylene, acetylene gas cylinders are constructed in a way that incorporates additional safety features.

Acetylene and acetone have a unique relationship. At a pressure of 12 atmospheres, 1 volume of acetone will absorb 300 volumes of acetylene. This is similar to the way carbon dioxide is absorbed into water to make a carbonated beverage. However, a simple pressurized solution of acetylene in acetone would be potentially explosive. Therefore, new acetylene cylinders are first completely filled with a porous concrete-like matrix onto which acetone is then adsorbed. There is no free liquid acetone. Explosions cannot take place within the tiny capillaries of the porous matrix, and the acetylene may be stored safely by allowing the acetone distributed throughout the mass to absorb it under pressure. When the valve of the cylinder is opened, the acetone releases the absorbed acetylene. Prior to disposal, it is industry practice to vent out-of-service cylinders of any remaining acetylene, and either remove the valve or otherwise open the cylinder so that the cylinder pressure approaches atmospheric. The acetone remains adsorbed onto the porous matrix.

Modern acetylene cylinders are filled with a monolithic lime-silica porous mass. Some older cylinders used a charcoal-Portland Cement-diatomaceous earth porous mass. Both filler types are concrete like matrices with crushing pressure around 450 psi. The charcoal-cement matrix has a porosity of no less than 75% while the Sand-Lime matrix generally has a porosity of no less than 80%. The porous mass of some older cylinders can contain asbestos. However, the asbestos is doubly encapsulated within the concrete like matrix inside the cylinder and is not friable. The asbestos is not a listed hazardous waste nor does it exhibit a characteristic of hazardous waste. Therefore the asbestos does not cause the out-of-service cylinder to be regulated as a RCRA hazardous waste. Acetylene is a compressed gas, and acetylene cylinders are manufactured under Department of Transportation Specification 8 and 8 AL, referenced under 49 CFR 178.59 and 178.60. The regulations require that the manufactured cylinders must pass rigorous testing as prescribed in Compressed Gas Association (CGA) Pamphlet C-12, Qualification Procedures for Acetylene Cylinder Design. These include Proof of Mechanical Strength of Filler Test, Flashback Test, Impact Stability Test and a Fire Test. All cylinder designs must

Mr. Carl Johnson
Compressed Gas Association, Inc.
June 1, 2001

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satisfactory pass these tests. Copies of the DOT cylinder specifications and the CGA Pamphlet C-12 are attached.

The acetone remaining in out-of-service cylinders is not spent

According to OAC rule 3745-51-01(C)(1) and 40 CFR 261.1(c)(1), a "spent material" is any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing. In 50 FR 53316 U.S. EPA states, *a solvent is considered "spent" when it has been used and is no longer fit for use without being regenerated, reclaimed, or otherwise reprocessed.*

Similarly, in EPA's "Background Document, Subtitle C-Identification and Listing of Hazardous Waste" dated 11/14/80, EPA states that:

"Spent solvent solutions include those solvents which are no longer useful without further processing, either because they have outlasted their shelf life or because they have been contaminated or so changed chemically or physically that they are no longer useful as solvents"

There are a number of reasons why an acetylene cylinder is designated to be out-of-service. These include irreparable damage to the cylinder, cylinder obsolescence, excessive filler clearance, filler cracking, shell corrosion or denting, filler plugging, and so on. None of these reasons, however, affects the performance of the acetone in the cylinder in accomplishing its purpose as the absorbing and stabilizing medium to prevent the explosive decomposition of acetylene. In simpler terms, the acetone within the cylinder does not become a spent material even though the cylinder itself may be incapable of remaining in active service. Since the acetone remaining in out-of-service acetylene cylinders is still "fit for use" and can still serve its intended purpose without further processing (See 50 FR 53316), it does not fall within the definition of "spent material" or "spent solvent".

The acetone in out-of-service acetylene cylinders is not a solvent used for solvent purposes within the framework of the F003 solvent listing

As previously mentioned, the primary purpose of the acetone is to serve as a product stabilizer to prevent explosive decomposition of the acetylene. This is a unique use of acetone to an acetylene cylinder it is adsorbed and adheres to the solid porous mass of the filler matrix by capillary action. The acetone is not readily removed by common

Jr. Carl Johnson
Compressed Gas Association, Inc.
June 1, 2001
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practices such as pouring, draining or aspirating. Rather, acetone remains an integral part of the cylinder package used to safely transport acetylene gas under DOT regulations. It is clear from U.S. EPA rulemaking documents that this specialized use of acetone in acetylene cylinders is not a solvent used for solvent purposes (50 FR 53316). The acetone is not intended to mobilize acetylene, since acetylene, as a gas is already mobile. The acetylene does not dissolve and remain in the acetone as a solid does when it dissolves in water. Instead, the acetylene is absorbed into the acetone (much like carbon dioxide in a carbonated beverage, water in a sponge, or a gas vapor into activated carbon) and is easily released from the acetone at atmospheric pressure.

Therefore, any acetone remaining in out-of-service vented acetylene cylinders is not covered by the F003 spent solvent listing since it is not a "solvent used for its solvent properties as defined by U.S. EPA in 50 FR 53316, which states:

"The spent solvent listings cover only those solvents that are used for their "solvent" properties-that is, to solubilize(dissolve) or mobilize other constituents. For example, solvents used in degreasing, cleaning, fabric scouring, as diluents, extractants, reaction or synthesis media and similar uses covered under the listing (when spent)."

Out-of-service acetylene cylinders are not hazardous waste, as they do not exhibit characteristics of hazardous waste.

The acetone within the acetylene cylinder does not meet the criteria for the Characteristic of Ignitability, the only characteristic for which listing as a hazardous waste would be considered. The solid waste of concern is the entire acetylene cylinder and the question of whether acetone is hazardous must be addressed in the context of the waste stream in which it exists. As stated earlier, the acetone exists in the acetylene cylinder completely adsorbed within the matrix of the filler material. The acetone is bound within the filler matrix such that there are no free liquids. A representative sample of the waste does not yield a liquid, and therefore, the flash point test for liquid cannot be applied. For non-liquids, the criteria for determining ignitability are that the waste is capable under standard temperature and pressure of causing fire through friction, absorption or moisture or spontaneous chemical change, and when ignited burns so vigorously and persistently that it creates a hazard. Our industry experience and logic dictate that none of these conditions are met by a vented steel cylinder.

Even if the acetone remaining in the out-of-service cylinder were considered an F003 spent solvent in this context, the resulting solid waste (i.e. the out-of-service acetylene cylinder) would not be a hazardous waste. Per OAC rule 3745-51-31(A) and 40 CFR

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261.31(a), F003 spent solvents, including acetone, are listed solely because of the characteristic of ignitability. According to OAC rule 3745-51-03(A)(2)(c) and 40 CFR Part 261.3(a)(2)(iii), when a listed hazardous waste that is listed solely because of ignitability is mixed with a solid waste (in this case the acetylene cylinder), the resulting mixture is not a hazardous waste if it no longer exhibits one or more characteristics of hazardous waste identified in OAC 3745-51-20 to 3745-51-24 or 40 CFR 261 Subpart C. The following U.S. EPA documents supports this interpretation:

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In correspondence dated November 7, 1984 from EPA's Alan Corson Chief, Studies and Methods Branch to Water Resources Associates, Inc., EPA states "...on the other hand, some wastes are listed solely because of a characteristic, such as F003 (ignitables). In this case the waste is no longer hazardous when it is mixed with a solid waste and the mixture does not exhibit any characteristic according to 261.3(a)(2)(iii)."

S
A December 1986 RCRA/Superfund Hotline Report states: "Thus, if an F003 waste which is listed solely for the characteristic of ignitability is mixed with a solid waste such that it no longer exhibits any characteristic of hazardous waste, it is no longer regulated by RCRA..."

Lastly, acetone is neither an ignitable compressed gas nor an oxidizer as defined in 49 CFR 173.

Conclusion

We conclude from our industry experience and application of industry knowledge that out-of-service acetylene cylinders that have been vented and emptied to atmospheric pressure do not meet the conditions for ignitability (D001) or any other characteristics of hazardous waste.

Additionally, any acetone remaining in out-of-service acetylene cylinders is not a spent solvent and therefore is not an F003 listed hazardous waste as described in OAC rule 3745-51-31(A) and 40 CFR 261.31(a).

Therefore, out-of-service acetylene cylinders emptied by common industry practices can be disposed of as non-hazardous waste in landfills that are permitted to accept industrial solid waste.

The CGA welcomes the opportunity to meet with you and discuss any questions you may have regarding this matter. Please contact me at the above address or call me at 703-412-0900 ext 712.

Mr. Carl Johnson
Compressed Gas Association, Inc.

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Very truly yours

Carl T Johnson

President

February 12, 2001
Richard L. Schultz
Cylinder Processors Incorporated
1223 Budd Street
Cincinnati, Ohio 45203

Dear Mr. Schultz:

This letter is in response to your two e-mails dated December 1 and 7, 2000. In these e-mail messages, you submitted information to Ohio EPA regarding the volume of waste acetylene cylinders transported to and managed by Cylinder Processors Incorporated (CPI). You also commented on Ohio EPA's conclusion that waste acetylene cylinders are

hazardous waste and must be managed in accordance with Ohio's hazardous waste rules. This letter will serve to summarize the hazardous waste rules applicable to the management of waste acetylene cylinders as well as CPI's obligations under those rules. Your July 5, 2000, letter introduced us to the complex issue of acetylene cylinder management and disposal. Now that we are aware of how acetylene cylinders are constructed, we are pushing forward to ensure that acetylene cylinders intended for disposal are managed appropriately until acetone has been removed to meet the "RCRA empty" standards.

As we informed you in our October 3, 2000, letter, scrap acetylene cylinders that contain greater than three percent of acetone by weight of the total capacity of the cylinder must be

managed as hazardous waste until they are emptied. This would require persons receiving such scrap cylinders from off-site generators to obtain a hazardous waste installation and operation permit and to comply with the regulations for hazardous waste storage facilities.

In your December 7, 2000, e-mail, you told us that many of the companies tied to the Compressed Gas Association's (CGA) organization do not agree with the DHWM's interpretation on proper management of acetylene cylinders (to remove acetone prior to disposal so that the cylinders are "RCRA empty"). You believe that these resistant CGA members plan to dispute Ohio's determination by communicating with Region 5.

Likewise, you are concerned about CPI's future and you put a hold on your Part B Permit application. We will be contacting CGA members to discuss our position on scrap acetylene cylinders and potential ways to provide compliance information to CGA members.

It should be noted that if you decide not to pursue a hazardous waste permit, CPI would

Richard L. Schultz
Cylinder Processors Incorporated
February 12, 2001
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have to immediately and permanently cease the receipt of hazardous waste acetylene cylinders. If you decide fairly quickly that you want to continue pursuing a Part B Permit, Ohio EPA is willing to work with CPI to determine how best to proceed with the application

for a hazardous waste installation and operation permit. This may be done by placing
CPI

under an enforcement order with a compliance schedule and possibly an exemption order.
Please notify us if you will be represented in this matter by legal counsel. If so, please
provide me with your counsel's name and telephone number.

To inform the regulated community about our determination, DHWM will be contacting
acetylene cylinder distributors and, as stated above, the CGA. We will put an article in
our

newsletter, The Notifier, for the generators and any other professional association we are
able to identify. We will also let the Division of Solid and Infectious Waste Management
know so they can let the solid waste landfills know that acetylene cylinders that have not
had the acetone removed would not be RCRA empty and therefore still contain regulated
hazardous waste. Because CGA has said they will be contacting Region 5, we have also
let our contacts in Region 5 and the Region 5 states know of our determination.

To help us make sure that we have a comprehensive list of acetylene distributors, testers,
manufacturers and professional associations, we are asking that if you have a list of this
sort, or if you know the names, addresses, and e-mail addresses of the above types of
companies and organizations, that you please forward this information to us. Also, if you
know the Standard Industrial Classification(SIC) or North American Industrial
Classification

System (NAICS) codes for these activities, we could use that information as well.

Please contact the DHWM within 30 days of your receipt of this letter to let us know
what

CPI plans to do. Also, please let me know if you have any questions regarding this letter.

Sincerely,

Rose Connelly

Compliance Assurance Section

Division of Hazardous Waste Management

wp9.RC.lcn.g:cpi.let.feb

cc:

Linda Neumann, CAS, DHWM

Attachment 3

Photograph Log



Figure 1: Oven used to heat the acetylene cylinders.



Figure 2: Vacuum pump located on top of the oven.



Figure 3: Vacuum pump located on the top of the oven.



Figure 4: Water tub (chiller) located at the top of the rack, totes used to collect the acetone are located at the bottom.



Figure 5: Totes used to collect the acetone.

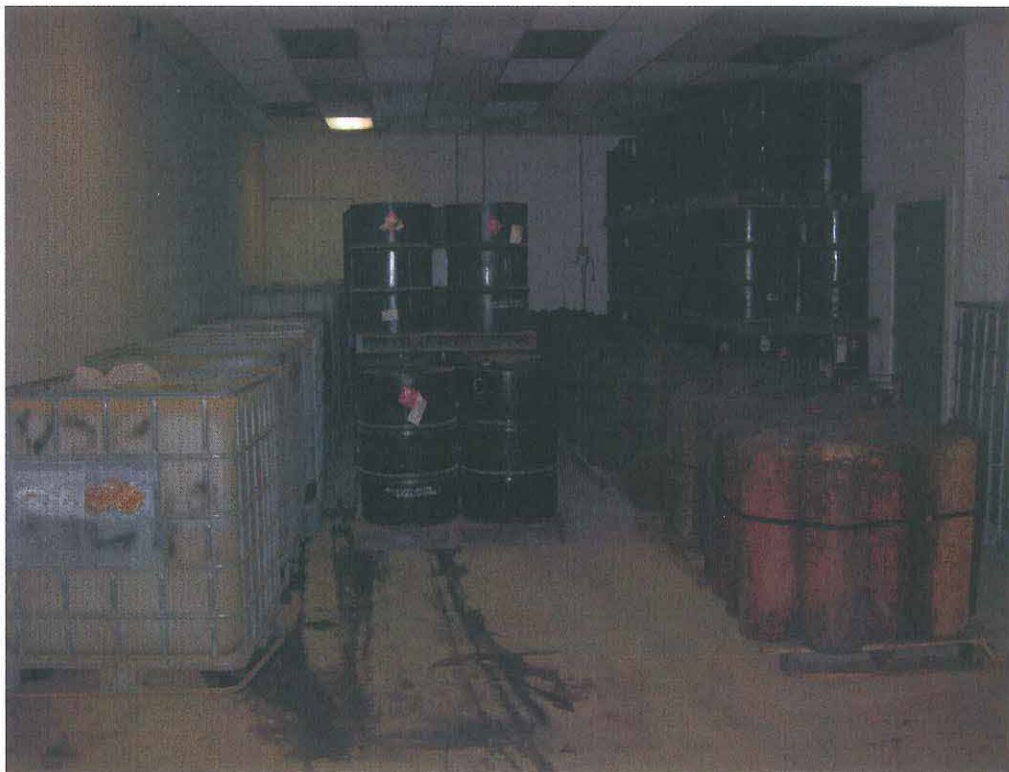


Figure 6: Area represented by Mr. King to accumulate the containers of hazardous waste acetone; note Mr. King indicated that all the containers were empty.



Land and Chemicals Division

Mail on 4-9-08

Type of Document:

- ☒ Notice of Violation and Inspection Report/Checklist
- ☐ No Violation Letter and Inspection Report/Checklist
- ☐ Letter of Acknowledgment
- ☐ Information Request
- ☐ Pre-Filing and Opportunity to Confer
- ☐ State Notification of Enforcement Action
- ☐ Return to Compliance
- ☐ Inspection Report





Facility Name : Cylinder Processors Inc.

Facility Location: 1415 Grandin Road

City: Kings Mill State: OH

U.S. EPA ID# OHR 000 132 365

Assigned Staff: Paul Atkociunas Phone: 6-7502

Name	Signature	Date
P. Atkociunas Author		4/7/08
S. Thorn Regional Counsel		4/7/08
P. Little Section Chief		4-7-08
W. Harris Branch Chief		4/9/08

Directions/Request for Clerical Support:

After the Section Chief/Branch Chief signs this sheet and original letter:

1. Date stamp the cover letter;
2. Make four copies of the contents of this folder:
 - One copy for the assigned staff;
 - One copy for the section file;
 - One copy for the branch file; and
 - One copy for the official file.
3. Make any additional copies for cc's or bcc's.
4. Mail the original certified mail and distribute office copies and cc's and bcc's.
Once the certified mail receipt is returned:
5. File the certified mail receipt (green card), with this sign-off sheet and the official file copy, and take to 7th floor RCRA file room;
6. E-mail staff the date that the letter was received by facility.